

Dated

2025

Hampshire County Council

and

Compass Contract Services (U.K.) Limited

**Agreement for the provision of
Education Catering Managed Outsource Services**

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Date

2025

Parties

- (1) **Hampshire County Council** of The Castle Winchester Hampshire SO23 8UJ ("**Council**")
- (2) **Compass Contract Services (U.K.) Ltd** incorporated and registered in England and Wales with company number **02114954** whose registered office is at **Parklands Court, 24 Parklands, Birmingham Great Park, Rubery, Birmingham, West Midlands, B45 9PZ** ("**Provider**").

Background

- A The Education Act (1996) requires maintained schools and academies (including free schools) to provide free school meals to disadvantaged pupils who are aged between 5 and 16 years old. Section 512 of the Education Act 1996, as amended, places a duty on these schools to provide free school meals to pupils of all ages that meet the criteria. Pupils are eligible for a free school lunch if (i) they are in Reception, Year 1, or Year 2 (i.e. Universal Infant Free School Meals) or (ii) their parents are in receipt of one or more of a list of benefits (see Schedule 1 (Specification)) for further details of the eligibility criteria .
- B However under 512(3) the duty to provide free school meals may pass to a local authority, either if that service is requested by a person entitled to free school meals or if it is 'not unreasonable' for that service to be provided
- C Schools (Educational Establishments) in Hampshire use several different arrangements to provide meals, including procuring from the private sector, providing meals with their own catering team or buying the catering service from the Council's in-house (Education Catering Service).
- D The Council is currently providing the Education Catering Services.

Following a decision to cease providing the Education Catering Services in house by January 2026, the Council is seeking to outsource its Education Catering Services. This would be done as managed outsource services, with the Council retaining strategic monitoring and a management overview to ensure the provider delivers the services in accordance with the KPIs and maintains quality services
- E On 23 April 2025, the Council advertised on the UK digital platform (reference 2025/S 000-016440), seeking expressions of interest

from potential providers for the provision of Education Catering Services.

- F The Services are listed in Schedule 1 to the Procurement Regulation 2024 (section 9(1), Procurement Act 2023) and falls under a provision School Meals (CPV code 55523100 – School meal services and 55524000 – School catering services. The Council therefore intends to procure this service as a light touch contract.
- G The Council has, through a competitive procurement process, selected the Provider to provide the Services and the Provider is willing and able to provide the Services in accordance with the terms and conditions of this Agreement.
- H Full details of the Background to this Agreement can be found in the Specification at Schedule 1 (Service Specification).

Agreed terms

1 Interpretation

- 1.1 In this Agreement the following expressions shall have the following meanings except as specifically provided in Schedule 6 (TUPE) and Schedule 9 (Pensions):

ACADEMIES	Has the meaning given to Academy in Schedule 9 (Pensions)
ACHIEVED KPI	means in respect of any Service in any measurement period, the standard of performance actually achieved by the Provider in the provision of that Service in the measurement period in question (calculated and expressed in the same way as the KPI for that Service in Schedule 1 (Specification) or Schedule 2 (Performance Monitoring)).
AFFECTED PARTY	has the meaning given to it in clause 39.1.
AGREEMENT	means this written agreement between the Council and the Provider consisting of these clauses and the attached Schedules.
AGREEMENT PERIOD	means the period from the Effective Date to: (a) the date of expiry of the Initial Term, or (b) following an extension pursuant to clause 2 the date of expiry of the Extended Period,

or such earlier date of termination of the Agreement in accordance with the Law or the provisions of this Agreement.

AGREEMENT PRICE

means the charges levied by the Provider for the Services in accordance with the charges, invoicing methods and terms of payment as set out in this Agreement including Schedule 3 (Payment and Invoicing);

AGREEMENT YEAR

means a period of twelve (12) Months commencing on the Effective Date and/or each anniversary of the Effective Date.

APPLICABLE REGISTRATIONS

means registration and accreditation with any Regulatory Body connected with the ability of the Provider to deliver the Services.

APPROPRIATE PENSION PROVISION

means pension provision in accordance with the provisions in Schedule 9 (PENSIONS).

ARMED FORCES COVENANT

means the covenant signed by the Council which can be found at the following link <https://www.hants.gov.uk/community/armedforces/covenant>.

BRIBERY ACT

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 government department concerning the legislation.

CENTRAL DIGITAL PLATFORM

the UK government's publishing portal for public sector procurement opportunities

CHANGE OF CONTROL

shall have the same meaning as set out in Section 1124 of the Corporation Tax Act 2010.

CHILD

means an individual aged 0 to 18 years old and "children" shall be construed accordingly.

COMMERCIALLY SENSITIVE INFORMATION

means any Party's Information that:

- (a) if disclosed, could prejudice the other Party's commercial interests and/or
- (b) constitutes a trade secret.

**CONFIDENTIAL
INFORMATION**

means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA 2018.

CONNECTED PERSON

has the meaning given in paragraph 45, Part 3, Schedule 6 of Procurement Act 2023

**CONTRACT
MANAGEMENT**

means the contract management plan set out in Schedule 10

CONSENTS

means:

- (a) any permission, consent, approval, certificate, permit, licence, statutory agreement, authorisation, exception or declaration required by Law for or in connection with the performance of Services; and/or
- (b) any necessary consent or agreement from any third party needed either for the performance of the Provider's obligations under this Agreement or for the provision by the Provider of the Services in accordance with this Agreement.

**CONTROLLER,
PROCESSOR, DATA
SUBJECT, PERSONAL
DATA, SPECIAL
CATEGORY DATA,
PERSONAL DATA
BREACH, DATA
PROTECTION
OFFICER**

shall take the meaning in the UK GDPR.

CONVICTION

means other than for minor road traffic offences, any previous or pending prosecutions, convictions, cautions and

binding-over orders (including any spent convictions as contemplated by section 1(1) of the Rehabilitation of Offenders Act 1974 by virtue of the exemptions specified in Part II of schedule 1 of the Rehabilitation of Offenders Act 1974 (Exemptions) Order 1975 (SI 1975/1023) or any replacement or amendment to that Order, or being placed on a list kept pursuant to section 1 of the Protection of Children Act 1999 or being made the subject of a prohibition or restriction under section 218(6) of the Education Reform Act 1988).

COUNCIL DATA

means:

- (a) the data, case management information, text, drawings, diagrams, documents, records, 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 or communicated to the Provider by or on behalf of the Council;
 - (ii) inputted into the Council's IT systems or the Provider's IT system by the Council or the Council's Representatives; or
 - (iii) which the Provider is required to access, generate, process, store or transmit pursuant to this Agreement, whether on the Council's IT systems or the Provider's IT system; or
- (b) any Personal Data for which the Council is the Controller.

COUNCIL'S REPRESENTATIVE

means the person identified by the Council as being the person responsible for managing the overall relationship with the Provider.

DATA LOSS EVENT

means any event that results, or may result, in unauthorised access to Personal Data held by the Provider 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 LEGISLATION	(i) all applicable UK law relating to the processing of personal data and privacy, including but not limited to the UK GDPR; and the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and (ii) (to the extent that it is applicable) the EU GDPR. The UK GDPR and EU GDPR are defined in section 3 of the Data Protection Act 2018.
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.
DEBARMENT LIST	the list of Providers referred to in section 62 of the Procurement Act 2023.
DBS	means the Disclosure and Barring Service established under the Protection of Freedoms Act 2012.
DEFAULT	means any breach of the obligations of the relevant Party or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of this Agreement.
DISASTER RECOVERY AND BUSINESS CONTINUITY PLAN	means the business continuity and disaster recovery plan as set out in Schedule 4 (Disaster Recovery and Business Continuity Plan) as amended from time to time.
DISPUTE	has the meaning given to it in clause 46.1.
DPA 2018	means the Data Protection Act 2018.
EDUCATION ESTABLISHMENT(S) / EDUCATIONAL ESTABLISHMENT(S)	has the meaning given to Educational Establishment or Educational Establishments in Schedule 1 (Specification)

ELIGIBLE EMPLOYEES	has the meaning given to it in Schedule 9 (PENSIONS).
EFFECTIVE DATE	11th July 2025 or such date as to be agreed between the Parties
ENHANCED DBS & BARRED LIST CHECK	means an Enhanced DBS & Barred List Check (Child) or Enhanced DBS & Barred List Check (Adult) or Enhanced DBS & Barred List Check (Child & Adult) (as appropriate) and the Provider shall ensure that these meet the Council's Disclosure and Barring Service Policy.
ENHANCED DBS POSITION	means any position listed in the Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975 (as amended), which also meets the criteria set out in the Police Act 1997 (Criminal Records) Regulations 2002 (as amended), and in relation to which an Enhanced DBS Disclosure or an Enhanced DBS & Barred List Check (as appropriate) is permitted as set out in the Council's Disclosure and Barring Service Policy.
ENVIRONMENTAL INFORMATION REGULATIONS/EIR	means the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
EXTENSION PERIOD	has the meaning given to it in clause 2
FINANCIAL YEAR	means the period commencing on 1st April and concluding on 31st March in each year of the Agreement Period.
FOIA	means the Freedom of Information Act 2000 and any subordinate legislation made under this 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 circumstance affecting its performance of its obligations under this

Agreement not within a Party's reasonable control including, without limitation:

- (a) acts of God, flood, drought, earthquake or other natural disaster;
- (b) epidemic or pandemic (excluding Covid19);
- (c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- (d) nuclear, chemical or biological contamination or sonic boom;
- (e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- (f) collapse of buildings, fire, explosion or accident; and
- (g) any labour or trade dispute, strikes, industrial action or lockouts; and
- (h) interruption or failure of utility service

but excluding any industrial dispute relating to the Provider or the Staff or any other failure in the Provider's or a Provider's supply chain.

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 Agreement or defrauding or attempting to defraud or conspiring to defraud the Council.

GOOD INDUSTRY PRACTICE

means standards, practices, methods and procedures (as practised in the United Kingdom) and conforming to the Law and exercising that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced Provider,

manager, operator or other person (as the case may be) engaged in a similar type of undertaking under this Agreement under the same or similar circumstances.

INFORMATION

has the meaning given under section 84 of the FOIA.

**INFORMATION
COMMISSIONER'S
OFFICE**

means the office of the Information Commissioner whose role is to uphold information rights in the public interest, and responsible for data protection in England, Scotland and Wales.

INITIAL TERM

means the period from the Operational Services Commencement Date to 31 December 2030, or such earlier date of termination of the Agreement in accordance with the Law or the provisions of the Agreement.

INSOLVENCY EVENT

in relation to the Provider:

- (a) any arrangement or composition with or for the benefit of its creditors (including any voluntary arrangement as defined in the Insolvency Act 1986) being entered into (or, in the case of such a voluntary arrangement, being proposed);
- (b) a supervisor, receiver, administrator, administrative receiver or other encumbrancer of a similar nature taking possession of or being appointed over or any distress, execution or other process being levied or enforced (and not being discharged with seven (7) days) upon the whole or any material part of the Provider's assets;
- (c) a court makes an order that the Provider be wound up or a resolution for a voluntary winding up of the Provider is passed;
- (d) ceasing or threatening to cease to carry on business or being or being deemed to be unable to pay its debts when they

become due within the meaning of Section 123 of the Insolvency Act 1986;

- (e) being an individual(s), has a bankruptcy order made against him or compounds with his creditor or comes to any arrangements with any creditors.

**INTELLECTUAL
PROPERTY RIGHTS**

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.

KEY MILESTONE

means any Milestone which is identified as “key” in the Mobilisation Plan or by operation of the Variation Procedure

**KEY MILESTONE
DATE**

means the date for completion of any Key Milestone as set out in the e Mobilisation Plan

KPI

means key performance indicator, as more particularly described in Schedule 1 (Specification) and/or Schedule 2 (Performance Monitoring).

LADO

has the meaning given in clause 10.5.

LAW

means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any Regulatory Body of which the Provider is bound to comply.

MEALS

means the school meal agreed in the School Menu

MILESTONE	means an event or task described in the Mobilisation Plan which, if applicable, shall be completed by the relevant Milestone Date
MILESTONE DATE	means the date set against the relevant Milestone in the Mobilisation Plan.
MOBILISATION PLAN	means the Provider's detailed mobilisation plan submitted as part of the Provider's Tender and as agreed with the Council.
MOBILISATION SERVICES	means the mobilisations services to be provided by the Provider from the Effective Date to 31 December 2025, as described in the Mobilisation Plan
MANDATORY POLICIES	means the Council's policies listed in Schedule 1 (Specification), as amended by notification to the Provider from time to time.
MODERN SLAVERY STATEMENT	means the statement found at https://documents.hants.gov.uk/aboutthecouncil/Modern-Slavery.pdf .
MONTH	means calendar month.
MSA OFFENCE	means an offence committed under the Modern Slavery Act 2015.
MULTI AGENCY SAFEGUARDING POLICY	has the meaning given in clause 10.8.
OFSTED	means the Office for Standards in Education, Children's Services and Skills Ofsted - GOV.UK (www.gov.uk).
OPERATIONAL SERVICES COMMENCEMENT DATE	the commencement date for the Services (excluding the Mobilisation Services) being (insert date 1 st January 2026 or such other date as may be agreed by the parties

PARENT COMPANY	shall have the meaning as set out in Section 1162 of the Companies Act 2006.
PARTY	means a party to this Agreement and the term "Parties" shall be construed accordingly.
PERMITTED PURPOSE	has the meaning given to it in clause 26.2.1.
PERSISTENT BREACH	means a Default which has occurred on three or more separate occasions within a continuous period of three (3) Months.
PREVENT DUTY	means the Council's duty under the Counter Terrorism & Security Act 2015 to have due regard to prevent people being drawn into terrorism.
PROCUREMENT ACT 2023 (PA 2023)	means the PA 2023 which received Royal Assent on 26 October 2023 and came into force on 24 February 2025 and applies to procurements (and their resulting contracts) started on and after 24 February 2025
PROHIBITED ACT	each of the following constitutes a "Prohibited Act": (a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:- (i) induce that person to perform improperly a relevant function or activity; or (j) reward that person for improper performance of a relevant function or activity (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement; (c) committing any offence:- (i) under the Bribery Act;

- (ii) under legislation creating offences concerning fraudulent acts;
- (iii) at common law concerning fraudulent acts relating to this Agreement or any other agreement with the Council;
- (iv) defrauding, attempting to defraud or conspiring to defraud the Council; or
- (v) committing an offence under subsection (2) of section 117 of the Local Government Act 1972.

PROTECTIVE MEASURES

means appropriate technical and organisational measures designed to ensure compliance with obligations of the Parties arising under Data Protection Legislation and this Agreement, 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 such measures adopted by it.

REGULATED ACTIVITY

means in relation to children as defined in Part 1 of Schedule 4, and in relation to vulnerable adults, as defined in Part 2 of Schedule 4, of the Safeguarding Vulnerable Groups Act 2006.

REGULATORY BODIES

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 Agreement or any other affairs of the Council and “Regulatory Body” shall be construed accordingly.

REGULATORY STANDARDS

means any principle, rule or law the Provider is required to comply with to provide services.

RELEVANT CONVICTION	means a Conviction that is relevant to the nature of the Services to be provided by the Provider.
RELEVANT TRANSFER	has the meaning given to it in Schedule 6 (TUPE)
REMEDICATION NOTICE	has the meaning given to it in clause 38.2.
REMEDICATION PLAN	means the plan agreed in accordance with clause 38.6 for the resolution of either any outstanding issues or the Provider's Default.
REMEDICATION PLAN PROCESS	means the process for resolving certain of the Provider's Defaults as set out in clause 38.
REPLACEMENT SERVICES	has the meaning given to it in Schedule 6 (TUPE)
REPLACEMENT PROVIDER	has the meaning given to it in Schedule 6 (TUPE)
REPRESENTATIVES	means any employee, officer, worker, agent or service provider engaged by a Party in connection with the Services, including any Sub-Contractor.
REQUEST FOR INFORMATION	shall have the meaning set out in FOIA or the Environmental Information Regulations as relevant (where the meaning set out for the term "request" shall apply).
SAFEGUARDING AND GOVERNANCE TEAM	means Hampshire County Council Early Intervention and Vulnerable Children team.
SCHEDULE	means a schedule attached to, and forming part of, this Agreement.
SCHOOL MENU	Means the menu agreed with the Council or if directed by the Council with an Education Establishment
SCHOOL FOOD STANDARDS	Means any Regulatory Standards set by a Regulatory Body in respect of food standards, including any guidance issues by any government department or government agencies or detailed in the Schedule 1 (Specification)
SERVICE or SERVICES	means the service or services to be supplied by the Provider as specified and detailed in

the Specification and the Provider's Tender. For the avoidance of doubt, all references to "the Services" in this Agreement shall include the provision of Meals to those entitled in the Service User school as specified in Schedule 1 (Specification)

SERVICE FAILURE

means a failure by the Provider to deliver any part of the Services in accordance with the Target KPI.

**SERVICE USER/
SERVICE USERS**

means an Education Establishment / Education Establishments

**SERVICE USER
EQUIPMENT**

means the Education Establishment's equipment, catering appliances, kitchen facilities, kitchen appliances, plant, materials and such other items supplied by the Education Establishment and used by the Provider in the performance of its obligations under this Agreement.

**SERVICE USER'S
PREMISES**

means any premises made available from time to time to the Provider by the Council or the Education Establishment in connection with this Agreement

SPECIFICATION

means the description of the Services to be supplied under this Agreement as set out in Schedule 1 (Specification).

STAFF

means all persons employed by the Provider to perform its obligations under this Agreement together with the Provider's locums, agents, Sub-Contractors and Sub-Contractors' employees used in the performance of its obligations under this Agreement.

SUB-CONTRACT

means any contract or agreement, or proposed contract or agreement between the Provider and any third party whereby that third party agrees to provide to the Provider the Services or any part of the Services, or facilities or services necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of the Services.

SUB-CONTRACTOR	means the third parties that enter into a Sub-Contract with the Provider.
SUB-CONTRACTOR ELIGIBLE EMPLOYEES	has the meaning given to it in Schedule 9 (PENSIONS).
PROVIDER	means the person, firm or company named above.
PROVIDER'S CONTRACT MANAGER	means the person identified by the Provider as the person responsible for managing the Provider's overall relationship with the Council and delivery of the Services.
PROVIDER'S EQUIPMENT	has the meaning given to it in clause 15.1.
PROVIDER'S TENDER	means the details for delivery of the Services provided by the Provider as set out at Schedule 8 (Provider's Tender).
SUSPENSION NOTICE	has the meaning given in clause 34.10.
TARGET KPI	means the minimum level of performance for a KPI which is required by the Council as set out against the relevant KPI in Schedule 2 (Performance Monitoring).
TERMINATION NOTICE	means any notice to terminate this Agreement which is given by either Party.
TUPE/TUPE REGULATIONS	means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246), as amended.
UK GDPR	means the UK General Data Protection Regulation.
VAT	means value added tax in accordance with the provisions of the Value Added Tax Act 1994.
WARNING NOTICE	means a warning notice issued by the Council, a professional or Regulatory Body or other interested stakeholder to the Provider.
WORKING DAY	means during an Education Establishment opening time, any day Monday to Friday inclusive of each week excluding Christmas

Day, Good Friday and Bank Holidays in England.

WORKING HOURS

means 9.00 am to 5.00 pm on any Working Day.

WORKING TIME REGULATIONS

means the Working Time Regulations 1998, as amended by the Working Time (Amendment) Regulations 2003.

- 1.2 The following rules of interpretation shall apply in this Agreement:
- 1.2.1 clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement;
 - 1.2.2 the Schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement. Any reference to this Agreement includes the Schedules;
 - 1.2.3 reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established;
 - 1.2.4 words in the singular shall include the plural and vice versa;
 - 1.2.5 unless the context otherwise requires, a reference to one gender shall include a reference to the other genders;
 - 1.2.6 reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts;
 - 1.2.7 reference to writing or written includes email;
 - 1.2.8 references to clauses and Schedules are to the clauses and Schedules of this Agreement, references to paragraphs are to paragraphs of the relevant Schedule;
 - 1.2.9 any phrase introduced by the terms including, include, in particular or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms;
 - 1.2.10 if there is any conflict or ambiguity between any of the provisions in the main body of the Agreement and the Schedules, such conflict or inconsistency shall be resolved according to the following order of priority:
 - a) the clauses of the Agreement;

b) the schedules to this Agreement other than Schedule 8 (Provider's Tender);

c) Schedule 8 (Provider's Tender) to this Agreement;

save to the extent that the standards or levels of Service set out in the Provider's Tender exceed those set out in Schedule 1 (Specification), in which case, such higher standards or levels of performance set out in the Provider's Tender shall prevail (to the extent necessary to achieve the performance of such higher standards or levels of performance only);

1.2.11 where the consent of a Party is required under this Agreement, such consent shall not be unreasonably withheld, conditioned or delayed;

1.2.12 reference to this Agreement or to any other agreement or document referred to in this Agreement is a reference of this Agreement or such other agreement or document as varied or novated (in each case, other than in breach of the provisions of this Agreement) from time to time; and

1.2.13 this Agreement shall be binding on, and endure to the benefit of, the Parties to this Agreement and its respective personal representatives, successors and permitted assigns, and references to any Party shall include that Party's personal representatives, successors and permitted assigns.

1.3 Any decision, act or thing which the Council is required or authorised to take or do under this Agreement may be taken or done by the Council's Representative or any person authorised, either generally or specifically, by the Council to take or carry out that decision, act or thing, provided that upon receipt of a written request the Council shall inform the Provider of the name of any person so authorised.

1.4 Where the consent of a Party is required under this Agreement such consent shall not be unreasonably withheld or delayed.

1.5 The terms of this Agreement apply to the exclusion of any other terms (including the Council's Purchase Order Terms and Conditions) that the Provider seeks to impose or incorporate, or which are implied by Law, custom, practice or course of dealing.

2 Agreement Period and Extension

2.1 This Agreement shall commence on Effective Date and shall continue for the Agreement Period unless terminated earlier in accordance with this Agreement.

2.2 The Provider shall provide:

- 2.2.1 the Mobilisation Services from the Effective Date up to (but not including) the Operational Services Commencement Date; and
- 2.2.2 the Services (excluding the Mobilisation Services) from the Operational Services Commencement Date for the remainder of the Agreement Period,
- 2.3 This Agreement shall remain in force for the **Initial Term** unless the Initial Term is extended in accordance with this clause 2 or this Agreement is terminated earlier in accordance with its terms.
- 2.4 Subject to clause 2.5 the Council may extend this Agreement in whole or in part beyond the Initial Term by a further period or periods of up to two (2) years (each such extension together with any such extensions, being the "Extension Period"), up to a maximum Agreement Period of seven (7) years. If the Council wishes to extend this Agreement, it shall give the Provider at least six (6) Months' written notice of such intention before the expiry of the Initial Term or before the end of any previous Extension Period (as the case may be).
- 2.5 If the Council serves notice in accordance with clause 2.4 above, the Provider must confirm in writing within four (4) weeks of receipt of such notice if the Provider objects to an extension of the Agreement. If no written objection is received then the Agreement Period shall be extended by the period set out in the notice.
- 2.6 Any such Extension Period shall be on the same terms and conditions as under the Agreement unless otherwise agreed in writing by the Parties in accordance with clause 41 (Variation).
- 2.7 If the Council does not wish to extend this Agreement beyond the Initial Term or any Extension Period (as applicable) or the Provider has objected to an extension in accordance clause 2.5 this Agreement shall expire on the expiry of the Initial Term in accordance with clause 2.1 or the expiry of the relevant Extension Period (as applicable) and the provisions of clause 35 (Consequences of Expiry or Termination) shall apply.

3 Warranties and sufficiency of information

- 3.1 The Provider warrants that:
 - 3.1.1 the Council has delivered or made available to the Provider all of the information and documents that the Provider considers necessary or relevant for the performance of its obligations under this Agreement;
 - 3.1.2 it has satisfied itself before submitting its Provider's Tender and entering into this Agreement as to the accuracy and sufficiency of any information provided by the Council;

- 3.1.3 it has satisfied itself as to the nature and extent of the risks assumed by it under the Agreement including the accuracy of the Agreement Price and other financial information stated by the Provider in the Provider's Tender, which shall (except in so far as is otherwise provided in the Agreement) cover all the Provider's obligations under the Agreement;
- 3.1.4 it has obtained for itself all the necessary information as to risks, contingencies, and any other circumstances whatsoever which might reasonably influence or affect the Provider's Tender;
- 3.1.5 it has entered into this Agreement in reliance on its own due diligence;
- 3.1.6 it has full capacity, authority and all necessary Consents (including, where its procedures so require, the consent of its Parent Company) to enter into and to perform its obligations under this Agreement;
- 3.1.7 this Agreement is executed by a duly authorised representative of the Provider;
- 3.1.8 there are no actions, suits or proceedings or regulatory investigations pending or, threatened against or affecting the Provider before any court or administrative body or arbitration tribunal that might affect the ability of the Provider to meet and carry out its obligations under this Agreement;
- 3.1.9 it will perform and procure the performance of its obligations under this Agreement in compliance with all applicable Laws;
- 3.1.10 it has, and will continue to hold, all Consents and regulatory approvals necessary to fulfil its obligations under this Agreement;
- 3.1.11 it shall discharge its obligations under this Agreement using personnel of the required skill, experience and qualifications and with all due skill, care and diligence and in accordance with Good Industry Practice;
- 3.1.12 all information that it provides in connection with its obligations under this Agreement (save for information which originated with the Council) shall in all material respects be accurate, complete and not misleading;
- 3.1.13 in entering into this Agreement, it has not committed any Fraud or fraudulent misrepresentation;
- 3.1.14 it has not committed any Prohibited Act;
- 3.1.15 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 Provider 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 Provider's assets or revenue; and

3.1.16 neither the Provider nor any of its officers, employees, agents or Sub-Contractors has:

- a) committed an MSA Offence;
- b) been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or
- c) is aware if any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;

3.1.17 in the three (3) years prior to the date of this Agreement:

- a) 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;
- b) it has been in full compliance with all applicable securities Laws and regulations in the jurisdiction in which it is established; and
- c) it has not performed any act or omission with respect to its financial accounting or reporting which could have an adverse effect on the Provider's position as an ongoing business concern or its ability to fulfil its obligations under this Agreement.

3.1.18 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 Provider in the provision of the Services:

- a) has a Relevant Conviction; or
- b) is barred from carrying out Regulated Activity.

3.2 Except as may be expressly set out in the Agreement, the Council does not warrant the accuracy of any representation or statement of fact or law including, without limitation, the frequencies or volumes set out in the Specification or other tender document given to the Provider by the Council, its servants or agents at any time before the execution of this Agreement.

- 3.3 Subject to clause 3.4, the Council shall not be liable to the Provider for any loss or damage which the Provider may sustain as a result of relying on any such other representation, statements, information or advice whether in contract, tort, under the Misrepresentation Act 1967 or otherwise, as a result of any inaccuracy or misrepresentation of any information (in any case whether oral, written, express or implied) or any omission in respect thereof made or agreed to by any person (whether a party to this Agreement or not); and
- 3.4 Clause 3.3 shall not apply to any statement, representation or warranty made fraudulently or to any provision of this Agreement which was induced by Fraud, for which the remedies available shall be all those available under Law.
- 3.5 The Provider:
- 3.5.1 warrants and represents that all information and statements made by the Provider as a part of the procurement process, including without limitation the Provider's Tender or response to any request to participate (if applicable), are true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Agreement; and
- 3.5.2 shall promptly notify the Council in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services or meet any Target KPIs; and
- 3.5.3 shall promptly notify the Council in writing if, during the Agreement Period:
- a) the Provider, the Provider's Connected Persons or any Sub-Contractor is placed on the Debarment List;
 - b) a mandatory exclusion ground or discretionary exclusion ground applies to the Provider, the Provider's Connected Persons or any Sub-Contractor; and
- 3.5.4 shall promptly notify the Council in writing within 7 days of any changes to the Provider's Connected Persons together with information regarding the identity of the new Connected Persons.
- 3.6 Each of the Parties hereby confirms that it has not relied on any written or oral representation, warranty or undertaking of the other in entering into the Agreement save for any such representation, warranty or undertaking expressly set out in this Agreement. This clause shall not apply so as to restrict the liability of any Party hereunder in respect of any Fraud or fraudulent misrepresentation.

4 Pre-conditions

- 4.1 On or before the Operational Services Commencement Date and/or within twenty-eight (28) calendar days of a written request by the Council at any time the Provider shall:
- 4.1.1 produce to the Council, for inspection, documentary evidence that the required insurances under clause 33 are properly in place, adequate and valid {including (where relevant) evidence that any Sub-Contractors have (or will have) the appropriate required insurances under clause 33 in place};
 - 4.1.2 provide full details of any sub-contracting arrangements as detailed in clause 44 (Sub-Contracting);
 - 4.1.3 If relevant procure (at the sole discretion of the Council) either that a reputable surety which meets with Council's approval will execute and deliver to the Council the Bond (at a reasonable cost to the Council) or that the Provider's Parent Company, if it has one, provides a Parent Company Guarantee to the Council;
 - 4.1.4 provide and procure that there is provided Appropriate Pension Provision in respect of the Eligible Employees and any Sub-Contractor Eligible Employees in accordance with the provisions of Schedule 9 (Pensions) and to provide evidence of such Appropriate Pension Provision to the Council;
 - 4.1.5 produce evidence of any required registration for the provision of the Services with the applicable Regulatory Body;
 - 4.1.6 produce School Menus as set out in the Specification (Schedule 1)
 - 4.1.7 provide evidence of up to date and valid enhanced Disclosure and Barring Service certificates in respect of all Staff who will be engaged in the delivery of the Services;
 - 4.1.8 provide documentary evidence of all of Mandatory Policies as specified in Appendix 1 of Schedule 1 (Specification).
- 4.2 If the Provider fails to comply with any of the provisions of clause 4.1, this shall constitute a material breach of a fundamental term of this Agreement and the Council may (without prejudice to any other right or remedy available to it) terminate this Agreement by written notice to the Provider having immediate effect.

5 Service implementation and mobilisation

- 5.1 The Specification sets out the Milestones and Council requirements in respect of implementation and delivery of the Services on and from the Operational Services Commencement Date.

- 5.2 The Provider shall as part of their Tender submit a detailed Mobilisation Plan and the Provider shall not be entitled to propose any variations to the Key Milestone Dates set out in the Specification.
- 5.3 The Mobilisation Plan shall set out how the Provider will mobilise its resources from the Effective Date to deliver and provide the Services in accordance with the Services Specification on and from Operational Services Commencement Date.
- 5.4 On and from the Effective Date the Provider shall implement the Mobilisation Services in accordance with the detailed Mobilisation Plan which shall form part of this Agreement.
- 5.5 The Provider shall perform its obligations in accordance with the Mobilisation Plan and the Council shall assess the Provider's performance against the targets, Milestones and Key Milestones contained in the Mobilisation Plan.
- 5.6 The Provider shall appoint a mobilisation manager (Provider's Project Manager), who shall have the authority to contractually bind the Provider on all matters relating to this Agreement. The Provider shall ensure continuity of the Provider's Project Manager.
- 5.7 The Provider shall ensure that an appropriate nominated senior officer, along with the Provider's Project Manager, will be responsible for ensuring that the Mobilisation Services are implemented in accordance with the Mobilisation Plan and that such representatives will be actively involved in the Mobilisation Services.
- 5.8 The Provider shall ensure that it deploys sufficient resources from the Effective Date for the duration of the Mobilisation Services in order to meet its requirements and obligations detailed in the Mobilisation Plan.
- 5.9 The Provider will work closely with the Council in respect of the Mobilisation Services and will ensure that the Council is kept up to date at all times in relation to the Provider's progress against the Mobilisation Plan which shall include reporting to the Council weekly (or more frequently if required by the Council) on its performance.
- 5.10 From the Effective Date until the Operational Services Commencement Date, the Council and the Provider's Project Manager shall hold at least weekly meetings (unless agreed otherwise in writing) to discuss this Agreement and in particular the Mobilisation Services and the Provider's progress against the Mobilisation Plan.
- 5.11 All changes to the Mobilisation Plan shall be subject to the Variation Procedure set out in Schedule 11

- 5.12 If, at any time, the Provider becomes aware that it will not (or is unlikely to) successfully achieve any Milestone by the applicable Milestone Date, it shall immediately notify the Council of the fact of the delay, the reasons for the delay, the consequences of the delay for the rest of the Mobilisation Plan and how the Provider proposes to mitigate the delay. The Provider shall deploy all additional resources and efforts, and take all reasonable steps, to eliminate or mitigate the consequences of the delay.
- 5.13 If the Provider does not achieve any of the agreed targets or complete any of the agreed tasks contained in the Mobilisation Plan by the relevant Milestone Dates or, in the Council's reasonable opinion, is very unlikely to have fulfilled its obligations under the Mobilisation Plan so that it is in a position to provide the Services in accordance with the terms of this Agreement by the Operational Services Commencement Date, this shall constitute a breach by the Provider and the Council shall be entitled to terminate this Agreement without affecting any other right it may have to terminate this Agreement.

Mobilisation Expenses

- 5.14 The Provider shall be responsible for its own mobilisation expenses for the provision of the Mobilisation Services.

6 Services

- 6.1 During the Agreement Period the Provider shall provide the Services from the Operational Services Commencement Date with all reasonable care, skill, prudence and foresight and in accordance with:
- 6.1.1 the provisions of this Agreement, including the Specification;
 - 6.1.2 the requirements of all Consents (which the Provider shall obtain, maintain and comply with at its own cost (unless otherwise agreed in writing with the Council));
 - 6.1.3 all applicable Laws (including but not limited to, (a) any obligation implied by sections 12, 13 and 14 of the Sale of Goods Act 1979 and section 2 of the Supply of Goods and Services Act 1982; (b) the Food Safety Act 1990 (as amended)); (c) Food Safety and Hygiene(England) Regulations 2013 and (d) Food Information Regulations 2014
 - 6.1.4 Good Industry Practice and the School Food Standards;
 - 6.1.5 Mandatory Policies;
 - 6.1.6 the Target KPI; and

- 6.1.7 all reasonable instructions of the Council's Representative acting in good faith and in accordance with this Agreement.
- 6.2 The Provider shall at all times during the Agreement Period ensure that:
 - 6.2.1 the Meals and/or Services conform in all respects with the Specification and the relevant quality standards and the School Food Standards;
 - 6.2.2 the Meals are free from defects and are fit for the purpose that such Meals are ordinarily used for and for the particular purpose made known to the Provider by the Council;
 - 6.2.3 the Meals and/or Services correspond with their description and are supplied in accordance with the Provider's proposal; and
 - 6.2.4 where applicable, it shall maintain accreditation with the relevant Regulatory Bodies.
- 6.3 If reasonably required by the Council, the Provider shall at any time during the Agreement Period supply samples of the Meals to the Council for evaluation and approval at the Provider's expense, and all subsequent Meals supplied shall be equal in quality or better than the approved sample.
- 6.4 The Council is purchasing fully managed Services under this Agreement, and the Provider is responsible for the management of the delivery of the Services to Service Users. This will include the day to day delivery of the Services, ensuring sufficient and appropriate staffing, continually reviewing and monitoring the Services and alerting the Council to any significant changes in Service User need or in the provision of the Services.
- 6.5 The Provider agrees that the Council relies on the skill and judgment of the Service Provider in the supply of the Meals and/or delivery of the Services and the performance of its obligations under this Agreement.
- 6.6 The Council cannot provide any guarantee as to the initial or future value of this Agreement and subject to clause 6.9 nothing in this Agreement places an obligation on the Council to require Service Users to purchase any Meals and/or Services from the Provider. The Council gives no guarantees whatsoever as to when any order will be placed by any Service User for any Meals and/or Services during the Agreement Period or under this Agreement.
- 6.7 The Provider must, unless otherwise agreed (subject to the Law) with the Council in writing, respond, where applicable, to all requirements and enforcement actions issued from time to time by any Regulatory Body.

- 6.8 The Provider shall to the extent reasonably practicable co-operate with and assist the Council in fulfilling its Best Value duty.
- 6.9 The Parties acknowledge and agree that the Provider shall be the Council's approved agent for the provision of the Meals and/or the Services subject to:
- 6.9.1 the provisions of clause 9 (Contingencies and Inability to Perform) and any other rights under this Agreement which the Council has to suspend the provision of the Meals and/or the Services;
 - 6.9.2 any other food provision services carried out by the Council outside the scope of the Services for any other areas of its business;
 - 6.9.3 any services the same as or similar to the Services that are currently being provided by the Council under any separate arrangements entered into prior to the Effective Date and, so far as the Council is aware of such arrangements, these have been notified to the Provider; and
 - 6.9.4 clauses 6.10 to 6.112.
- 6.10 Notwithstanding the provisions of clause 6.9, the Provider acknowledges and agrees that the Council cannot require Service Users to purchase any Meals and/or Services from the Service Provider.
- 6.11 Notwithstanding the provisions of clause 6.9, the Council shall, at all times, retain the right to provide, and/or source from alternative third party providers, meals and/or services the same as or similar to the Meals and/or Services:
- 6.11.1 for clients and customers with high level additional needs (whether individually or as a specific group of clients and customers), where the Council reasonably believes that the requirements of such clients and customers cannot be met by the Service Provider under this Agreement; and
 - 6.11.2 if any emergency circumstances arise,

provided that in such circumstances the Council has contacted the Service Provider regarding its requirements for such meals and / or services and the Service Provider has confirmed to the Council that it is unable to meet the Council's requirements.
- 6.12 Where there is any conflict or inconsistency between the provisions of this Agreement and the requirements of a Consent, then the latter shall prevail, provided that the Provider has made all reasonable attempts to obtain a Consent in line with the requirements of this Agreement.

- 6.13 The Provider shall as soon as practicable notify the Council's Representative of any circumstance which may prejudice the Provider's ability to perform all or part of the Services in accordance with this Agreement on either a temporary or permanent basis.
- 6.14 Subject to clause 39 (Force Majeure) where the Provider is unable to perform either part or all any of its obligations under this Agreement on either a temporary or permanent basis then the Council may employ another provider to provide that part of those Services and recover its additional costs (if any) reasonably and properly incurred in doing so from the Provider.
- 6.15 Nothing in this Agreement shall prevent the Council from instructing another provider to undertake part or all of the Services in particular where:
- 6.15.1 the Provider is unable to respond for any reason, or
- 6.15.2 the Council is entitled to suspend the Services in accordance with this Agreement.
- 6.16 The Provider will, for each Service User, be required to meet the requirement set out in the Specification.
- 6.17 The Provider will undertake a risk assessment with the Service User and their representative, where appropriate, and ensure there are clear policies and procedures for the management of risk, which are fully implemented through day-to-day practices.
- 6.18 The Provider shall, for the proper performance and management of the Services have in place, as a minimum, the policies listed in the Specification (Mandatory Policies) and shall ensure that the Provider Staff comply with the provisions of such Mandatory Policies.
- 6.19 The Provider shall comply with the Pensions Schedule set out in Schedule 9 of this Agreement.
- 6.20 The Provider shall comply with the Contract Management Plan set out in Schedule 10 of this Agreement.

7 Key Performance Indicators (KPI)

- 7.1 Where any Service (or element of the Services) is listed in Schedule 1 (Specification) or Schedule 2 (Performance Monitoring) as being subject to a specific KPI, the Provider shall provide that Service in such a manner so as to ensure that the Achieved KPI in respect of that Service is equal to or higher than the corresponding Target KPI.
- 7.2 If the existing Services are varied or new Services are added, Target KPIs for the same will be determined and included within Schedule 1 (Specification) or Schedule 2 (Performance Monitoring).

- 7.3 The Provider shall provide records of and management reports summarising the Achieved KPI as provided for in clause 21 (Agreement Management/Governance).

8 Delivery and Packaging

Delivery

- 8.1 Time is of the essence in relation to the delivery of the Services (excluding the Mobilisation Services) from the Operational Services Commencement Date, and if the Provider fails to start delivering the Services (excluding the Mobilisation Services) from the Operational Services Commencement Date the Council shall have the right to terminate this Agreement and the provisions of clause 34 (Termination) shall apply to the same.
- 8.2 Time in relation to the delivery of the Services to Service Users shall be of the essence and if the Service Provider fails to deliver the Services within the timeframes specified in the Specification and/or any other relevant provisions in this Agreement, without prior written approval, the Council and/or Service User may release itself from any obligation to accept and pay for the Meals and/or Services.
- 8.3 Except where otherwise provided in this Agreement, the Meals shall be provided and the Services provided by the Staff or the Sub-Contractors at such place or places as set out in the Specification and/or as directed by the Council's Contract Manager and/or Service User.
- 8.4 The Council and/or any Service User shall be under no obligation to accept or pay for any Meals provided in excess of the quantity ordered by the specific Service User or Council (as applicable). The risk in any excessive Meals shall remain with the Service Provider.

Packaging

- 8.5 The food products used in the Services shall be securely packaged in trade packages in accordance with Best Industry Practice, the Specification, all applicable Laws and regulations and any instructions stipulated by the Council.
- 8.6 All food products that customarily bear any mark, tab, brand, label or other device indicating place of origin, inspection by any government or other body or standard of quality must be delivered with all said marks, tabs, brand, labels, serial numbers or other devices intact.
- 8.7 The Provider shall:
- 8.7.1 use all reasonable endeavours to minimise the level of un-environmentally friendly packaging used in the provision of the Meals;

9 Contingencies and Inability to Perform

- 9.1 The Provider acknowledges the importance of the continued provision of the Services, and it shall, immediately notify the Council's Contract Manager of any circumstances where the Provider is unable to perform the Services (in whole or in part), or of any circumstances which might prejudice the Service Provider's ability to perform the Services (in whole or in part), whether temporarily or permanently and confirm the same in writing giving details of the circumstances, reasons and its plan for the immediate reinstatement of provision of the Meals and/or the Services. Provision of information in accordance with this clause 9.1 shall not release or excuse the Service Provider from any of its obligations under this Agreement.
- 9.2 Subject to clause 39 (Force Majeure) and clause 9.3, where the Provider is unable to provide the Meals and/or Services for a continuous period to meet the minimum requirement as specified in the Specification and under this Agreement, and:
- 9.2.1 the Council is not reasonably assured that the proposed reinstatement plan will ensure the recommencement of the delivery of the Meals and/or Services; and/or
- 9.2.2 the Provider's reinstatement plan does not result in the successful recommencement of the provision of the Meals and/or Services within a further twenty four (24) hours, then in the interests of the health and wellbeing of those relying on the Meals/Services, the Council may seek another service provider to temporarily provide that part of the Meals and/or Services and the Council may recover its additional costs (if any) reasonably and properly incurred in doing so from the Provider as a debt.
- 9.3 Without prejudice to the Council's rights under clause 9 -, the Provider shall be entitled to propose a revised reinstatement plan at any time. As soon as a revised reinstatement plan reasonably demonstrates that the Provider is able to recommence the provision of the Meals and / or Services within twenty four (24) hours ("**Final Reinstatement Plan**"):
- 9.3.1 the Council shall not withhold or delay its approval of the Final Reinstatement Plan;
- 9.3.2 the Council shall immediately cease the engagement of any and all other service providers which have been providing any Meals and/or Services in place of the Provider; and
- 9.3.3 the Provider shall recommence the delivery of the Meals and/or Services within twenty-four (24) hours of submission of the Final Reinstatement Plan.

Warning Notices

- 9.4 The Provider shall upon receipt of either a Warning Notice or notification of investigation or similar notice from any applicable Regulatory Body, Police, Home Office or any other professional or Regulatory Body or other interested stakeholder, or a Warning Notice from the Council immediately notify the receipt of the aforementioned Warning Notice or notification in writing to the following interested parties:
- 9.4.1 as appropriate, any Service Users currently in receipt of a service directly affected by the matter in question
- 9.4.2 In the event that the Council receives any written notification from a professional or Regulatory Body or other interested stakeholder concerning the Provider the Council reserves the right to issue an equivalent notice to the Provider and to carry out a risk assessment of the Provider, its premises, Staff and the Services.

10 Safeguarding

- 10.1 The Parties acknowledge that the Provider, in delivering the Services pursuant to this Agreement have ultimate responsibility for the management and control of the Services provided under this Agreement and will comply with the Safeguarding Vulnerable Groups Act 2006/Children Act 2006 (as applicable).
- 10.2 The Provider shall have systems and procedures in place to safeguard a Child from abuse, exploitation and neglect, including but not limited to those referred to in this clause.
- 10.3 The Provider shall have in force and shall maintain a safeguarding policy which shall set out and require compliance by its Staff with the obligations detailed in this clause and the principles and procedures laid down in the policies cited in the following clause 10.4 in order that there can be effective joint action to protect a Child from abuse.
- 10.4 The Provider shall hold a copy of, be familiar with and comply with the Local Safeguarding Children Board Partnership policy and procedures (HIPS Safeguarding Children Procedures) (<https://hipsprocedures.org.uk/>) recognising the duty that all Providers have to safeguard <https://www.gov.uk/government/publications/working-together-to-safeguard-children--2>)

These policies can be viewed at:

http://www.hampshiresab.org.uk/professionals-area/hampshire_4lsab_multiagency_safeguarding_adults_policy_guidance/

<https://www.hampshirescp.org.uk/>

<http://www.workingtogetheronline.co.uk>

and collectively known as “Multi-Agency Safeguarding Policy”.

In addition to the above, it is a requirement that the Provider’s staff who are performing the Services in the Service User Premises are familiar with, hold a copy of, and comply with, the specific safeguarding policy of the Service User.

- 10.5 A copy of these documents shall be held by all Provider Staff and the Provider shall ensure that its Staff, understand and comply with the Chapter 2 Section 7 of the guidance, as previously referred to in clause 10.4, regarding notification of allegations to the Local Authority Designated Officer (“LADO”).
- 10.6 Where an allegation has been made against the Provider’s Staff, the Provider shall refer to the Hampshire, Isle of Wight, Portsmouth and Southampton (HIPS) safeguarding children procedures manual at: <https://hipsprocedures.org.uk/lkyyst/adults-who-pose-a-risk-of-harm-to-children/allegations-against-staff-or-volunteers/#s3807>, as may be updated from time to time, and contact the relevant LADO for the Council.
- 10.7 The Provider shall operate in accordance with the requirements of the Disclosure and Barring Service in relation to both checking potential staff and reporting concerns and the provisions of clause 18 (Disclosure and Barring Service Checks and Recruitment) shall apply.
- 10.8 The Provider’s measures under their safeguarding policy shall include, but shall not be limited to:
 - 10.8.1 robust employment procedures including references and Disclosure and Barring Service checks (see clause 18 (Disclosure and Barring Service Checks and Recruitment) for further details on these);
 - 10.8.2 robust procedures and guidelines for the management of activities which could present risks of abuse;
 - 10.8.3 safeguarding procedures compatible with the policies and procedures detailed in clause 10.4 above, with a clear statement of rights and zero tolerance of abuse;
 - 10.8.4 up to date procedures for avoiding and responding to actual or suspected physical, sexual, psychological, financial or material abuse, discriminatory abuse, domestic abuse, organisational abuse, modern slavery, self-neglect and acts of neglect or omission with such procedures reviewed at least once every year;
 - 10.8.5 clear policies to deal with dangerous, exploitative or unsafe behaviour and practice and provide training to all the Provider Staff to develop appropriate skills and knowledge;

- 10.8.6 a clear and well publicised whistle blowing policy and procedure and code of conduct for Staff;
 - 10.8.7 procedures that clearly state the response to any act of discrimination and harassment;
 - 10.8.8 safeguarding training that promotes awareness of abuse and how to respond and report concerns;
 - 10.8.9 training for Staff that supports good practice in all areas described under policies and procedures; and
 - 10.8.10 clear and accessible information describing the service standards, how to complain and how to report abuse.
- 10.9 In the event that the Council through the course of a safeguarding investigation identifies that remedial action is required in respect of this Agreement, the Council will follow the procedures set out in clauses 9.4 (Warning Notices), 38 (Remediation Plan Process for Default) and 34 (Termination and Suspension Rights) below
- 11 Complaints handling**
- 11.1 The Provider shall maintain a system for receiving and investigating complaints and keeping details of how many complaints are received and how they are dealt with. The Provider shall:
- 11.1.1 publicise the complaints procedure;
 - 11.1.2 ensure that complaints are promptly dealt with and that complainants receive a written statement of the Provider's response; and
 - 11.1.3 ensure that complainants who are not satisfied with the Provider's response are informed of their right to refer their complaints to the Council's Representative.
- 11.2 Upon reasonable request, the Provider shall supply the Council's Representative with a copy of its complaints procedures and records relating to complaints made in relation to the Services and the Provider's response.
- 12 NOT USED**
- 13 NOT USED**
- 14 NOT USED**
- 15 Provider's Equipment and transport**
- 15.1 The Provider shall be responsible at its own cost of providing all equipment, vehicles and materials (owned by or hired or leased by or on loan to the Provider) necessary and/or used by the Provider in

the performance of the Services or in connection with the provision of the Services (the “**Provider Equipment**”).

- 15.2 The Provider shall maintain all Provider Equipment in a safe condition so that it is fit for the purpose of providing the Meals and Services and as a minimum shall comply with the requirements of this Agreement and ensure that all Provider Equipment shall be serviced and maintained by the Provider in accordance with the manufacturer’s recommendations. Where appropriate, the Provider shall ensure that where there is a statutory or other obligation to undertake testing of the Provider Equipment, such testing is carried out by suitably qualified and competent persons at regular intervals and records are kept of such testing and made available to the Council upon request.
- 15.3 The Provider shall be responsible for the security of all Provider Equipment used by the Provider in connection with the provision of the Services and the Council shall not (as far as permitted by law) be liable for loss, damage or injury in respect of the same.

Transport

- 15.4 The Provider shall ensure that all Staff who drive their private vehicles or the Provider’s vehicles in the course of their work and in delivering the Services hold a current driving licence and appropriate insurance cover which should include business use

16 Service User Equipment and Premises

- 16.1 The Provider shall ensure that it satisfies itself that all Service User Equipment is in a safe condition so that it is fit for the purpose of providing the Meals and Services and as a minimum shall comply with the requirements of this Agreement. The Provider shall contact the Contract Manager if it cannot meet the obligation under this clause 16.1.
- 16.2 Where appropriate, the Provider shall ensure that where there is a statutory or other obligation to undertake testing of the Service User Equipment, such testing is carried out by suitably qualified and competent persons at regular intervals and records are kept of such testing and made available to the Council upon request.
- 16.3 The Provider shall be responsible for the security of all Service User Equipment used by the Provider in connection with the provision of the Services and the Council shall not (as far as permitted by law) be liable for loss, damage or injury in respect of the same, unless caused by the Council or the relevant Service User.
- 16.4 The Provider shall:
- be responsible for any environmental liability arising from or in relation to use of the Service User’s Premises and Service User

Equipment for the Services except to the extent that such liability arises from any act, omission, default or negligence of the Service User;

- 16.4.1 operate the Service User Equipment in accordance with all Laws and good industry practice including obtaining and maintaining any Consents for provision of the Meals and/or Services at the Service User's Premises; and
- 16.4.2 use all reasonable endeavours to ensure that its provision of Meals and Services does not lead to any unnecessary nuisance or annoyance to the Service User, Council or third parties, including without limitation in relation to the emissions of dust, smells, noise and vermin.
- 16.5 Insofar as the Provider will use in connection with the provision of the Services Service User Equipment offered by the Service Users, in no circumstances may a Service User Equipment be moved from that Service User's Premises to another Service User's Premises without the Council's Representative's written consent.
- 16.6 The Provider shall use the Service User Equipment solely in connection with the provision of the Services/Meals and shall make good any damage to the Service User Equipment caused by the Provider, its Sub-Contractors, Staff, servants or agents. Any damage shall be remedied by the Provider in accordance with the reasonable instructions of the Council's Representative and all costs incurred in complying with this clause shall be borne by the Provider. Service User Equipment used by the Provider shall be restored at the end of the Agreement Period in the same or similar condition as at the Operational Services Commencement Date (fair wear and tear excepted) by the Provider. Any damage to the Service User Equipment must be notified to the Council immediately.
- 16.7 The Council does not guarantee, warrant or give any assurances as to the age or state of repair or suitability for use in the Service of any item of Service User Equipment and the Provider hereby acknowledges that it has carried out its own due diligence including inspections of such equipment and has satisfied itself as to the condition and suitability of each item of such Service User Equipment for use in the provision of the Service and accordingly the Provider shall not be relieved from any liability in relation to any failure to provide the Service or any part of it where such failure is caused by a failure in of or the unsuitability of any Service User Equipment.
- 16.8 The Service User Equipment shall remain the property of the Service User and shall be delivered up to the Service User at the end of the Agreement Period or earlier termination except insofar as

it has reached the end of its useful life and has been disposed of by the Service User. Any item of equipment which was not Service User Equipment shall remain the property and responsibility of the Provider or relevant third party and shall not, unless expressly provided to the contrary in the Agreement, be delivered up to the Council or the Service User at the end of the Agreement Period.

17 Provider's Staff

17.1 The Provider shall employ in and about the provision of the Services only such persons who are:

17.1.1 of suitable character;

17.1.2 suitably and appropriately qualified, trained, skilled and experienced in the area of work which they are to perform;

17.1.3 covered by the Provider's (and/or by the relevant Sub-Contractor's) required insurances for the provision of the Services.

17.1.4 if applicable, registered with and where required have completed their revalidations by the appropriate professional Regulatory Body; and

17.2 The responsibility for all aspects of the employment of Staff including selection, recruitment, training, management, daily direction and control, supervision, grievance and discipline at all times rests entirely with the Provider.

17.3 The Provider shall at all times be fully responsible for any Provider Staff registration requirements and the payment of all income or other taxes, national insurance contributions, or levies of any kind, relating to or arising out of the employment of any person employed by the Provider and shall fully and promptly indemnify the Council in respect of any liability.

17.4 The Provider shall ensure that its Staff:

17.4.1 where specifically identified to the Council, will be assigned to provide the Services;

17.4.2 are appropriately attired for the duties they are undertaking including, (where necessary) wearing protective clothing and footwear.

17.5 The Provider shall employ sufficient persons to ensure that the Services required under this Agreement are provided at all times and in all respects in accordance with the Specification. The Provider shall ensure that a sufficient reserve of staff/personnel is available to provide the Services during staff holidays or absence through sickness or otherwise. The Provider shall be responsible for managing all aspects of staff cover.

- 17.6 The Provider shall ensure that all Provider Staff and any other person employed in and about the provision of the Services is at all times sufficiently trained and properly instructed with regard to the Services and in particular:
- 17.6.1 the tasks such person has to perform;
 - 17.6.2 the food safety and hygiene required for a Child school meals
 - 17.6.3 all relevant provisions of this Agreement;
 - 17.6.4 all relevant policies, rules and procedures and standards of the Provider as set out in the Specification;
 - 17.6.5 all relevant policies, rules, procedure, statutory requirements concerning allergen management and avoidance of cross contamination of food.
 - 17.6.6 all relevant policies, rules, procedures and statutory requirements concerning health and safety at work and able to identify risks or potential safety hazards;
 - 17.6.7 fire risks and fire precautions;
 - 17.6.8 the use of any specialist equipment required for the provision of the Services and in the moving and handling of equipment and people;
 - 17.6.9 the need to maintain the highest standards of hygiene, courtesy and consideration, underpinned by training and an understanding of their responsibilities in infection prevention and control;
 - 17.6.10 the need to recognise situations which may involve any actual or potential danger of personal injury to any person at the location and where possible without personal risk, to make safe such situations, and to report such situations to their manager; and
 - 17.6.11 the need to issue receipts and maintain accurate records for any monies handled during the delivery of the Services.
- 17.7 The Council reserves the right to require the removal of any Provider Staff used by the Provider where:
- 17.7.1 the Provider Staff:
 - a) did not receive a clear Disclosure and Barring Service check or refuses to complete a Disclosure and Barring Service statement/application;
 - b) at any stage there is a disclosure of information that in the reasonable opinion of the Council renders the Provider Staff unsuitable for the work involved; and any such decision by the Council will be taken in

compliance with the Rehabilitation of Offenders Act 1974;

18 Disclosure and Barring Service Checks and recruitment

- 18.1 The Provider shall comply with the requirements of the Specification in relation to staffing and the recruitment of Provider Staff.
- 18.2 The Rehabilitation of Offenders Act 1974 does not apply and therefore all persons engaged by the Provider in the delivery of the Services under this Agreement are required to declare any previous Convictions.
- 18.3 The Provider shall not employ, engage or use the services of any person in the delivery of the Services who:
 - 18.3.1 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 children or vulnerable adults or any other person, in the provision of any part of the Services involving a Regulated Activity or access to or unsupervised contact with children or vulnerable adults without the Council's prior and express written consent; or
 - 18.3.2 discloses that they have a Relevant Conviction, or who is found by the Provider to have any Relevant Convictions (whether as a result of a police check or through the Disclosure and Barring Service procedures or otherwise), in the provision of any part of the Services involving access to or processing of financial data, or access to or processing of Personal Data or Special Category Data without the Council's prior and express written consent.
- 18.4 The Provider shall (and shall procure that its Sub-Contractors shall):
 - 18.4.1 ensure that all Provider Staff who, in providing the Services, will be engaged in working with a Child is subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list and the children's barred list, as appropriate; and
 - 18.4.2 monitor the level (i.e. enhanced of standard) and validity of the checks under this clause 18.4 for each of the Provider Staff, and other persons engaged to provide or supervise the provision of the Services, with such updated clearance checks to be obtained at least one in every three (3) years and on such other occasions as is appropriate or otherwise required by the Council.

19 TUPE, Pensions and Re-tender

- 19.1 The Parties agree that the provisions of Schedule 6 (TUPE Schedule) and Schedule 9 (Pensions) shall apply to any Relevant Transfer.

- 19.2 The Parties agree to comply with the provisions of Schedule 6 (TUPE) and Schedule 9 (Pensions).
- 19.3 The Provider shall provide the Council with the information set out in Schedule 6 (TUPE) and Schedule 9 (Pensions) and such other information and data as the Council may reasonably require to enable it to prepare the necessary documentation to carry out a procurement process or to appoint a Replacement Provider to provide the Services in place of the Provider.

20 Payment & invoicing

- 20.1 From the Operational Services Commencement Date, the Provider shall act as the Council's agent in the provision of Meals and/or the Services to Service Users.
- 20.2 As the Council's agent, the Provider shall from the Operational Services Commencement Date deliver Meals and/or the Services to the Service Users and shall be responsible for collecting payment of the Agreement Price from Service Users in accordance with Schedule 3 (Payment and Invoicing).
- 20.3 From the Operational Services Commencement Date the Provider shall invoice Service Users (other than Academies) directly for payment of the Agreement Price and in accordance with Schedule 3 (Payment and Invoicing).
- 20.4 From the Operational Services Commencement Date the Provider shall invoice the Council directly for payment of the Agreement Price in respect of Meals and/or the Services to Academies and in accordance with Schedule 3 (Payment and Invoicing).
- 20.5 Subject to the Provider following the payment and debt recovery policies and debt recovery procedures as set out in Schedule 3, the Council shall be liable to the Provider in respect of Service Users who are in default for non-payment of the Agreement Price.
- 20.6 Payment of VAT shall apply in accordance with Schedule 3.
- 20.7 Save as otherwise set out in clause 20.14, clause 29 and Schedule 3 (Payment and Invoicing), the Agreement Price may not be varied during the Agreement Period unless the Parties agree otherwise as a Variation.
- 20.8 The Provider shall maintain complete and accurate records, accounting systems and supporting documentation for:
- 20.8.1 all Meals/Services provided to Service User, location, date and time provided, nature of meal (paid, Universal Infant Free School Meal or Income Based Free School Meal);
 - 20.8.2 the cost of Meals/Services provided to Service User;

- 20.8.3 methods of payment for each Service User;
- 20.8.4 income received relating to, or from each Service User through online payments or other means
- 20.8.5 any payments due from Service Users;
- 20.8.6 current debit and credit balances for all Service Users;
- 20.8.7 any amounts which may or have become chargeable to the Council pursuant to this Agreement;
- 20.9 Upon reasonable request, the Provider shall supply the Council's Contract Manager with a copy of its records under clause 20.8 above.
- 20.10 Such records shall be retained for inspection by the Council for twelve (12) years from the end of the Agreement Year to which the records relate.
- 20.11 Unless otherwise expressly agreed between the Parties in writing, the Agreement Price and such other amounts expressed to be payable by the Council under this Agreement shall constitute the Council's entire payment liability to the Provider and the Provider hereby indemnifies the Council against any liability to any third party for costs or charges relating to the Services. Any costs incurred by the Provider as a result of additional service provision over and above the Services detailed in the Specification or as otherwise requested by the Council shall be at the Provider's own risk.
- 20.12 The Provider shall not suspend the supply of Meals and/or the Services if any payment is overdue unless the Provider has followed the debt recovery procedures and the Council has agreed that the Provider shall cease provision of the Services to a particular Service User.
- 20.13 Where the Provider enters into a Sub-Contract for the purpose of performing this Agreement, it shall cause a term to be included in such Sub-Contract that requires payment to be made of undisputed sums by the Provider to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice, as defined by the Sub-Contract requirements. Where the Service Provider is late in making such payments the Provider shall report to the Council any late payment.

PRICE REVIEW / SHORTFALLS

- 20.14 The Parties agree that the provisions of Part 4 of Schedule 3 (Payment and Invoicing) shall apply in respect of any review of the Meal Price and the provisions of Part 6 of Schedule 3 (Payment and Invoicing) shall apply in respect of any Unexpected Cost Increase and/or reduction in income.

- 20.15 In consideration of the Provider performing its obligations in accordance with the terms and conditions of this Agreement, the Council shall pay or procure payment of the Agreement Price to the Provider in accordance with the payment plan set out in Schedule 3 (Payment and Invoicing).
- 20.16 The Council shall make payment of or procure the payment of the Agreement Price within thirty (30) calendar days of receipt of a valid invoice submitted in accordance with Schedule 3 (Payment and Invoicing).
- 20.17 Invoices which do not meet the requirements of Schedule 3 (Payment and Invoicing) will not be settled until receipt of an accurate invoice. The Council reserves the right to return an invoice that does meet the requirements of Schedule 3 (Payment and Invoicing).
- 20.18 The Agreement Price is exclusive of VAT. If applicable, the Council will pay VAT at the rate and from time to time in the manner prescribed by Law.
- 20.19 If any sum payable under this Agreement is not paid within thirty (30) calendar days of the due date, the Party to whom the same is due reserves the right to charge interest from the date due for payment to the actual date of payment in accordance with the Late Payments of Commercial Debts (Interest) Act 1998. No interest shall be payable on any amount that is the subject matter of a bona fide dispute between the Parties.

Gratuities, gifts and additional payments

- 20.20 The Provider shall have in place policies and procedures regarding the receipt of tips, gratuities, gifts and rewards from Service Users and disclose such policies to the Council upon request.
- 20.21 The Provider shall not, whether itself, or by any other person, solicit any gratuity, tip or any other form of money taking or gift, reward, collection, or charge for any part of the Services other than bona fide charges approved by the Council.
- 20.22 The Provider shall not make any payment (in cash, gift or in kind) to employees of the Council or any other person who may be involved in an assessment of potential Service Users.
- 20.23 The Provider shall notify the Council of any Provider Staff being requested to act as Power of Attorney or Appointment as Receiver, executor of a will or Independent Mental Capacity Advocate in respect of any Service User.
- 20.24 The Provider must ensure that the financial interests of the Service User are safeguarded in accordance with the Fundamental

Standards. Written records of all transactions shall be maintained, and where Service User's money is handled appropriate records and receipts shall be maintained. Any such records shall be made available to the Council upon request

21 Agreement management/Governance

- 21.1 The Provider shall at all times properly manage and monitor performance of its obligations under this Agreement.
- 21.2 The Provider shall appoint a Provider's Contract Manager to act on its behalf for all purposes connected with this Agreement, and any replacements to the Provider's Contract Manager shall be subject to the prior written approval of the Council's Representative.
- 21.3 Notices, information, instructions or other communications given to the Provider's Contract Manager by the Council shall be deemed to have been given to the Provider.
- 21.4 The Provider shall ensure that at all times the Council's Representative is provided with up-to-date contact details for the Provider's Contract Manager or any temporary or permanent replacement including name, work address, work and mobile telephone numbers.
- 21.5 The Provider's Contract Manager or a duly authorised and competent representative of the Provider shall be available to meet the Council's Representative at all reasonable times and shall provide such written reports as the Council's Representative may reasonably require prior to such meetings or generally.
- 21.6 The Provider shall compile and maintain such information as the Council may reasonably require so that the Council is able to monitor and evaluate the provision and performance of its obligations under this Agreement.
- 21.7 The Provider shall have in place robust financial management systems and shall adopt sound accounting and other financial procedures to ensure effective and efficient running of its business and its continued financial viability.
- 21.8 The Provider shall operate open book accounting so financial information is accessible to the Council at agreed frequency and format.
- 21.9 During the Agreement Period, should the Provider change its registered name and/or address as defined above in the Provider's party information it shall, within five (5) Working Days of changing its registered company name and/or address notify the Council of its new registered company name and/or address.

22 Statutory functions

- 22.1 Nothing in this Agreement shall prejudice or affect the Council's rights, powers, duties and obligations in relation to the exercise of its functions as a local authority.

23 Social responsibility

- 23.1 In the performance of the Services and in its dealings with Council employees, customers and members of the general public, the Provider shall, as if it were a public body, comply and shall ensure that its representatives comply with:
- 23.1.1 the Human Rights Act 1998;
 - 23.1.2 the Equality Act 2010 and all applicable Laws relating to equal opportunities and shall have an equal opportunities policy;
 - 23.1.3 the Council's equal opportunities policies and procedures as may be adopted and amended from time to time and as notified to the Provider; and
 - 23.1.4 the Council's Modern Slavery Statement.
- 23.2 The Council has signed the Armed Forces Covenant. In the performance of the Services and in its dealing with Staff, Service Users and those involved in the delivery of the Service, the Provider shall comply and ensure that its representatives comply with the Armed Forces Covenant. In particular, the Provider shall ensure that:
- 23.2.1 those who have served in the past, and their families, should face no disadvantage compared to other citizens in the provision of public and commercial services;
 - 23.2.2 where appropriate, they take appropriate actions to support the transition from military to civilian life; and
 - 23.2.3 where appropriate, they work with partners to make efficient use of available resources to deliver the best possible outcomes for members of the armed forces community.
- 23.3 The Provider shall take regard of the Prevent Duty. The Provider must not be engaged in any extremist activity or espouse extremist views. The Provider must:
- 23.3.1 protect vulnerable people from being drawn into terrorism by having robust safeguarding policies in place to identify vulnerable people at risk, and intervening as appropriate;
 - 23.3.2 ensure that Staff have a good understanding of the Prevent Duty and are trained to recognise vulnerability to being drawn into

terrorism and are aware of available programmes to deal with this issue (e.g. Channel);

23.3.3 ensure Staff are aware of and know how to contribute to Prevent-related activity in their area where appropriate;

23.3.4 ensure the Prevent Duty is considered in other relevant policies such as IT policies and use of premises.

23.4 The Provider shall establish clear policies to deal with dangerous, exploitative or unsafe behaviour and practice and provide training to all the Supplier's Staff to develop appropriate skills and knowledge.

23.5 The Provider shall have in place and shall have implemented robust up-to-date procedures (including whistle-blowing policy and recruitment checks) for avoiding and responding to actual or suspected physical, sexual, psychological, financial or material abuse, discriminatory abuse, domestic abuse, organisational abuse, modern slavery, self neglect and acts of neglect or omission. Such procedures shall be reviewed at least once every year.

24 Health and Safety

24.1 The Provider shall comply at all times with the Health and Safety at Work etc. Act 1974 and all other Laws, regulations and codes of practice pertaining to the health and safety of employees and other affected persons, including but not limited to the Management of Health and Safety at Work Regulations 1999, the Reporting Injuries, Diseases & Dangerous Occurrences Regulations 2013 ("**RIDDOR**") and all other health, safety and welfare requirements applicable to the Services that are subject of this Agreement and any other requirements set out in the Specification.

24.2 The Provider shall supply and maintain at all times a policy with respect to the health and safety at work of all persons engaged in the provision of the Services and shall nominate a suitably competent person to have overall responsibility for its compliance with its obligations under clause 24.1 above and for ensuring that all health and safety matters concerning the provision of the Services are dealt with in accordance with the Providers' health and safety policies and any specific requirements of the Council as notified to the Service Provider.

24.3 When performing the Services, the Provider shall:

24.3.1 where the Provider is the 'Responsible Person' for the purposes of RIDDOR, promptly inform the Council if the Service Provider makes a report as required by RIDDOR and the Service Provider shall keep records of any such reportable incident as required under RIDDOR; and

- 24.3.2 immediately inform the Council in respect of any injury or dangerous occurrence which arises in connection with the performance of the Services.
- 24.4 The Service Provider shall ensure all Provider Staff are made aware of, understand and receive the appropriate training in relation to health and safety and the Provider's policies and procedures.
- 24.5 The Service Provider shall carry out a suitable and sufficient risk assessment prior to the commencement of the Services (and prior to commencing any Services for an individual Service User). The purpose of this risk assessment is to ensure that all persons involved in the provision of the Services, including any persons providing the Services on behalf of the Provider who are not employees of the Provider, are sufficiently competent, receive sufficient training, and are provided with appropriate equipment and systems of work so as to ensure, so far as reasonably practicable, their health and safety and the health and safety of the Service Users and any other persons who may be affected by the way in which the provision of the Services is undertaken.
- 24.6 The Provider shall ensure that its Provider Staff observe any local arrangements for fire, health, safety, welfare, hygiene and security. The hygiene practice shall include;
 - 24.6.1 Cleaning down the equipment and premises used for preparing the Meal and or providing the service
 - 24.6.2 Ensuring waste disposal is in accordance with the requirement in the Schedule 1 (Specification)
 - 24.6.3 Ensuring required hygiene standard is maintained to prevent pests in the Service User premises as required in Schedule 1 (Specification)
- 24.7 The Provider is responsible for Portable Application Testing (PAT) of equipment as it deems necessary.
- 24.8 In the event of an emergency, for example accident, fire or flood in the provision of the Services, the Provider and/or the Provider Staff shall notify the appropriate emergency services immediately. The Council shall also be informed as soon as practicable.
- 24.9 Where applicable, the Provider shall provide its Staff, at no cost to the Council or the Staff, with adequate disposable and non-disposable protective clothing and equipment necessary to protect and promote the health and safety of the Provider Staff and whilst performing the Services.
- 24.10 The Provider shall record and report to the Council's Contract Manager the volume of accidents and incidents that have occurred

in relation to the Services (including themes identified and action taken).

- 24.11 The Service Provider shall notify the Council immediately in the event of any incident occurring in the performance of the Services or this Agreement where that incident causes any personal injury or damage to property that could give rise to personal injury.
- 24.12 The Service Provider shall ensure that any information and data relevant to demonstrating its compliance with this clause 24 is made available to the Council on request.
- 24.13 The Provider and any Sub-Contractor shall co-operate with the Council in any investigation into any incident reported to the Council, including providing access to any location, item of equipment, information or individual necessary for an effective and thorough investigation.
- 24.14 Where the investigation into an incident identifies failings in compliance with health and safety legislation, codes of practice and any matters set out in this clause 24, the Provider shall take such steps as are necessary to fully address the failings.
- 24.15 The Provider shall inform the Council of any Health and Safety Regulatory Body intervention that impacts on or relates to the performance of the Services.
- 24.16 Without prejudice to any other provision of this Agreement the Council has the right to suspend the provision of the Services (in whole or in part) in the event of non-compliance by the Provider with regard to health and safety issues. The Provider shall not resume provision of the Services until the Council is satisfied that the non-compliance has been rectified. If the Council decides in its absolute discretion not to suspend the provision of the Services with immediate effect the Default provisions as set out in clause 27 shall apply. Where the Council has exercised its powers of suspension under this clause 24.16 it shall not incur any liability for any such suspension of the Services.
- 24.17 The Provider shall ensure that any information and data relevant to demonstrating its compliance with clause 24.1 above is made available to the Council on request. In addition, the Provider shall notify the Council immediately of any problems or deficiencies within their organisation relating to health and safety matters.
- 24.18 The Provider shall notify the Council immediately in the event of any incident occurring in the performance of this Agreement where that incident causes any personal injury or damage to property that could give rise to personal injury.

- 24.19 The Provider and any Sub-Contractor shall co-operate with the Council in any investigation into any incident reported to the Council, including providing access to any location, item of equipment, information or individual necessary for an effective and thorough investigation.
- 24.20 Where the investigation into an incident identifies failings in compliance with health and safety legislation codes of practice and any matters set out in clause 24.1 above, the Provider shall take such steps as are necessary to fully address the failings.
- 24.21 The Provider shall inform the Council of any Health and Safety regulatory intervention that impacts on or relates to the performance of its obligations under this Agreement.

25 Infection prevention and control

- 25.1 The Provider shall have a nominated infection prevention and control lead that has undertaken additional relevant training. The infection and prevention control lead, will be:
- 25.1.1 responsible for infection prevention and control within the organisation(s);
 - 25.1.2 aware of how to obtain specialist advice if problems occur; and
 - 25.1.3 disseminate information/training to Provider Staff.
- 25.2 The Provider will ensure that Provider Staff are equipped to work safely, for example provided with alcohol hand gel and personal protective equipment.

26 Confidentiality/Transparency

- 26.1 The term "Confidential Information" does not include any information that:
- 26.1.1 is or becomes generally available to the public (other than as a result of its disclosure by the receiving Party or its Representatives in breach of this clause); or
 - 26.1.2 was available to the receiving Party on a non-confidential basis prior to disclosure by the disclosing Party; or
 - 26.1.3 was, is or becomes available to the receiving Party on a non-confidential basis from a person who, to the receiving Party's knowledge, is not bound by a confidentiality agreement with the disclosing Party or otherwise prohibited from disclosing the information to the receiving Party; or
 - 26.1.4 was known to the receiving Party before the information was disclosed to it by the disclosing Party; or

- 26.1.5 the Parties agree in writing is not.
- 26.2 Each Party shall keep the other Party's Confidential Information confidential and shall not:
- 26.2.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Agreement ("Permitted Purpose"); or
- 26.2.2 disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause.
- 26.3 A Party may disclose the other Party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
- 26.3.1 it informs such Representatives of the confidential nature of the Confidential Information prior to disclosure; and
- 26.3.2 at all times, it is responsible for such Representatives' compliance with the confidentiality obligations set out in this clause.
- 26.4 A Party may disclose Confidential Information to the extent required by Law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction or in accordance with the Council's obligations under the FOIA and Data Protection Legislation as set out in clauses 27 (Freedom of Information/Transparency) and 28 (Data Protection) below, provided that, to the extent it is legally permitted to do so, it gives the other Party as much notice of such disclosure as possible.
- 26.5 The Provider acknowledges that the Council may, during the Agreement Period, be required by Law to publish certain information in relation to the Provider's performance against the KPI as set out in Schedule 1 (Specification) and where applicable any breach of the Agreement by the Provider and/or termination of the Agreement. The Provider shall render such assistance and co-operate with the Council to enable such publication; however, the Council shall, at its sole discretion, determine the information and data that it is required to publish and whether there is any confidential or commercially sensitive information to be redacted prior to publication.
- 26.6 The Council, in line with the Government's ongoing drive to open up the activities of the public sector to greater scrutiny, has prepared its transparency agenda and the Provider hereby agrees that, notwithstanding anything set out in this clause or elsewhere in this Agreement, the Council shall be entitled to publish this Agreement in whole or in part (including from time to time any agreed changes to the Agreement), in whatever form the Council may decide. The Provider further agrees that the Council may publish (if they deem it relevant) any payments arising under this Agreement.

- 26.7 On termination of this Agreement, each Party shall:
- 26.7.1 return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information;
 - 26.7.2 erase all the other Party's Confidential Information from its computer systems (to the extent possible); and
 - 26.7.3 certify in writing to the other Party that it has complied with the requirements of this clause, provided that a recipient Party may retain documents and materials containing, reflecting, incorporating or based on the other Party's Confidential Information to the extent required by Law or any applicable governmental or regulatory authority.
- 26.8 The Provider shall procure that each Sub-Contractor used by it in the provision of the Services under this Agreement executes a confidentiality undertaking in a form approved by the Council. The Provider shall immediately notify the Council of any notification it receives from a party to such an undertaking that it believes there to have been a disclosure of such information or of any reasonable suspicion it has that there has been a breach of such an undertaking.
- 26.9 The provisions of this clause shall survive for a period of six (6) years from termination of this Agreement.

27 Freedom of Information/Transparency

- 27.1 The Provider acknowledges that the Council is subject to the requirements of the FOIA and the EIR. The Provider shall:
- 27.1.1 provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and EIR;
 - 27.1.2 transfer to the Council all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within two (2) Working Days of receipt;
 - 27.1.3 provide the Council with a copy of all Information belonging to the Council requested in the Request for Information which is in its possession or control in the form that the Council requires within five (5) Working Days (or such other period as the Council may reasonably specify) of the Council's request.
- 27.2 The Provider acknowledges that the Council may be required under the FOIA and EIR to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Provider. The Council shall take reasonable steps to notify the Provider of a Request for Information (in accordance with the

Cabinet Office's Freedom of Information Code of Practice issued under section 45 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 Council 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 EIR.

27.3 Notwithstanding any other term of this Agreement, the Provider consents to the publication of this agreement in its entirety (including variations), subject only to the redaction of information that is exempt from disclosure in accordance with the provisions of the FOIA and EIR.

27.4 The Council may, prior to publication, consult with the Provider on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decisions in its absolute discretion. The Provider shall assist and co-operate with the Council to enable the Council to publish this Agreement.

28 Data Protection

28.1 The Council and the Provider acknowledge their obligations under the relevant Data Protection Legislation and will comply with their obligations under the relevant Data Protection Legislation in force at the time.

28.2 The Provider will be the Controller of Personal and Special Category Data that is held, collected and processed by it in the course of providing the Services, including Personal and Special Category Data.

28.3 The Council will be a separate Controller for any Personal and Special Category Data held and processed by the Council including of any Personal and Special Category Data provided to the Council by the Provider.

28.4 The Parties will abide by the terms of the Data Sharing Agreement set out at Schedule 5.

28.5 The Provider will enter into a separate data sharing agreement with the Service User relating to the personal data shared between them in the course of the provision of the Services, that is compliant with Data Protection Legislation and which enables the Provider and the Service User to meet their obligations as independent controllers. The data sharing agreement will be entered into prior to such sharing taking place.

29 Continuous Service Improvement

29.1 The Provider shall adopt a policy of continuous improvement in relation to the Services, pursuant to which it will annually review with

the Council the Services, the manner in which it supplies the Services and identify new or potential improvements to Services with a view to reducing costs (including the charges/costs to calculate the Agreed Price) and/or improving the quality and efficiency of the Services ("**Annual Improvement Plan**").

- 29.2 The Annual Improvement Plan shall identify and detail, as applicable:
 - 29.2.1 the emergence of new and evolving relevant technologies which could improve the Services;
 - 29.2.2 new or potential improvements to the Services including the quality, responsiveness, procedures, performance mechanisms and customer support services in relation to the Services (as applicable);
 - 29.2.3 new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Council which might result in efficiency or productivity gains or in reduction of operational risk;
 - 29.2.4 changes in ways of working that would enable the Services to be delivered at lower costs and/or bring greater benefits to the Council;
 - 29.2.5 how the proposed changes ensure Best Value for the Council through reference to market intelligence, the Provider's own data and experience, relevant published information and information from other suppliers and purchasers;
 - 29.2.6 how the Provider would implement any improvements identified in clauses 29.2.1 to 29.2.4;
 - 29.2.7 any decrease in the Agreement Price to be paid by the Council for the Services as a result of any of the improvements identified in clauses 29.2.1 to 29.2.4.
- 29.3 The Parties shall provide to each other any information which may be relevant to assisting the objectives of continuous improvement and in particular reducing costs.
- 29.4 The Provider shall report to the Council's Contract Manager once every Agreement Year on the Annual Improvement Plan.
- 29.5 The Provider shall ensure that the information that it provides to the Council in accordance with clause 29.2 shall be sufficient for the Council to decide whether any further improvements to the Services should be implemented. The Provider shall provide any further information that the Council requests in connection with any improvements to the Services identified by the Provider. Where it is agreed that any improvement to the Services or reduction in

Agreement Price identified by the Provider should be implemented, the Parties shall follow the variation procedure in accordance with clause 41.

- 29.6 The benefit of any work carried out by the Provider to improve or update the Services and/or to facilitate their delivery and/or any alterations or variations to the Agreed Price or the provision of the Service, which are identified in the Annual Improvement Plan produced by the Provider shall be implemented by the Provider (subject to relevant procurement Law) at no additional cost to the Council.

30 Intellectual Property Rights

- 30.1 Save as expressly granted under this Agreement, neither the Council nor the Provider shall acquire any right, title or interest in any Intellectual Property Rights vested in or licensed to the other Party prior to or independently of the performance by the relevant Party of its obligations under this Agreement.
- 30.2 In the absence of prior written agreement by the Council to the contrary, all Intellectual Property Rights created by the Provider or any Staff, agent or Sub-Contractor of the Provider:
- 30.2.1 in the course of performing the Services; or
 - 30.2.2 exclusively for the purpose of performing the Services,
- shall by virtue of this Agreement be vested in the Council on creation.
- 30.3 The Provider shall indemnify (and keep indemnified) the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that such liabilities have resulted directly from the Council's failure properly to observe its obligations under this clause.

31 Audit

- 31.1 The Council reserves the right to audit the Provider's compliance with its obligations under this Agreement and the Provider must allow for audits by the Council or the Council's designated auditor.
- 31.2 The Council shall during each audit comply with those security, sites, systems and facilities operating procedures of the Provider that the Council deems reasonable and use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt

the Provider or delay performance of its obligations under the Agreement.

- 31.3 Subject to the Council's obligations of confidentiality, the Provider shall on demand provide the Council and the Council's auditors with all reasonable cooperation and assistance (and shall procure such co-operation and assistance from its Sub-Contractors) in relation to each audit, including:
 - 31.3.1 all information requested by the Council within the permitted scope of the audit;
 - 31.3.2 reasonable access to any sites and to any equipment used (whether exclusively or non-exclusively) in the performance of its obligations under the Agreement;
 - 31.3.3 access to the Provider's systems; and
 - 31.3.4 access to Provider Staff.
- 31.4 The Provider shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Provider's performance of its obligations under the Agreement against the applicable performance indicators at a level of detail sufficient to verify compliance with the performance indicators.
- 31.5 The Council shall endeavour to (but is not obliged to) provide at least fifteen (15) Working Days' notice of its intention to conduct an audit.
- 31.6 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit identifies a material Default by the Provider, in which case the Provider shall reimburse the Council for all the Council's reasonable costs incurred in connection with the audit.

32 Liability & indemnity

- 32.1 Subject to clause 32.2, the Provider shall indemnify and keep indemnified the Council against all actions, proceedings, claims, demands, liabilities, costs, expenses, damages and losses whatsoever whether arising in tort (including negligence) default or breach of contract, including but without limitation:
 - 32.1.1 the Provider's breach or negligent performance or non-performance of this Agreement;
 - 32.1.2 any claim made against the Council arising out of or in connection with the provision of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Provider, its Sub-Contractor or Provider Staff;

- 32.1.3 the enforcement of this Agreement;
- 32.1.4 any breach of the warranties contained in clause 3 (Warranties and Sufficiency of Information);
- 32.1.5 any breach of its obligations set out in clause 28 (Data Protection) and clause 26 (Confidentiality/Transparency);
- 32.1.6 any claim made by any employee or agent of the Provider, whether as to the terms of employment or any other matter;
- 32.1.7 any breach of its obligations as set out in clause 10 (Safeguarding) and clause 17 (Provider's Staff);
- 32.2 The indemnity under clause 32.1 shall apply except insofar as the liabilities, costs, expenses, damages and losses incurred by the Council are directly caused (or directly arise) from the negligence or breach of this Agreement by the Council.
- 32.3 Subject to clauses 32.5.1 and 32.6, 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 this Agreement which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, use, goodwill or business opportunities whether direct or indirect.
- 32.4 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.
- 32.5 Subject to clause 32.6, the Provider's total aggregate liability:
 - 32.5.1 is unlimited in respect of:
 - a) the indemnities in respect of clause 4.1.4 (Pre-conditions), , clause 19 (TUPE, Pensions and Re-tender), (clause 20 (Payment of VAT) clause 26 (confidentiality) clause 28 (Data Protection), clause 30 (Intellectual Property Rights); Schedule 6 (TUPE) and Schedule 9 (Pensions);and
 - b) any claim made by any employee or agent of the Provider, whether as to the terms of employment or any other matter; and
 - c) the Provider's wilful default.
 - 32.5.2 in respect of all other claims, losses or damages, whether arising from tort (including negligence), breach of contract or otherwise under or in connection with this Agreement (other than a failure to pay any of the Agreement Price that is properly due and payable

and for which the Council shall remain fully liable), shall in no event exceed £250,000 } in each Agreement Year 125% of the aggregate Agreement Price paid under or pursuant to this Agreement in the applicable Agreement Year in respect of which the claim arises, whichever is greater

32.6 Notwithstanding any other provision of this Agreement neither Party limits or excludes its liability for:

32.6.1 Fraud or fraudulent misrepresentation;

32.6.2 death or personal injury caused by its negligence, or that of its staff, agents or Sub-Contractors;

32.6.3 breach of any obligation as to title implied by statute; or

32.6.4 any other act or omission, liability for which may not be limited under any applicable Law.

32.7 Nothing in this Agreement shall impose any liability on the Council in respect of any liability incurred by the Provider to any other person, but this shall not be taken to exclude or limit any liability of the Council to the Provider that may arise by virtue of either a breach of the Agreement or by negligence on the part of the Council or the Council's employees, servants or agents.

32.8 Where the Provider comprises more than one person the obligations and liabilities of the Provider under this Agreement shall be the joint and several obligations of those persons comprised in the Provider.

Limitation of Liability, Warranties and Indemnity for PCI DSS

32.9 The Provider shall be responsible for maintaining security controls that comply with all Payment Card Industry Data Security Standard (PCI DSS) requirements that are applicable to the Provider, the purpose of which are, inter alia, to:

32.9.1 Protect the cardholder data that the Provider may possess or otherwise store, process or transmit on in performance of this Service; and

32.9.2 prevent the Provider employees from impacting the security of the cardholder data environment during the performance of the Service.

33 Insurance

33.1 The Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Provider, arising out of the Provider's performance of this

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 Provider.

33.2 The Provider shall effect and maintain in force the following insurance policies for the duration of this Agreement in relation to the performance of this Agreement:

33.2.1 Employer's Liability Insurance Policy of not less than ten million pounds sterling (£10,000,000.00) for each and every claim, act or occurrence or series of claims, acts or occurrences;

33.2.2 Professional Indemnity Insurance Policy of not less than five million pounds sterling (£5,000,000.00)} for each and every claim, act or occurrence or series of claims, acts or occurrences. In respect of professional indemnity insurance, insurance policies shall be maintained in place for a minimum period of six (6) years following expiry of this Agreement;

33.2.3 Public Liability Insurance Policy of not less than ten million pounds sterling (£10,000,000.00) for each and every claim, act or occurrence or series of claims, acts or occurrences;

33.2.4 Motor Insurance Policy which is unlimited for personal injury claims and not less than ten million pounds sterling (£10,000,000.00) for each and every claim for damage to property;

33.2.5 Product Liability Policy of not less than five million pounds sterling (£5,000,000.00) for each and every claim, act or occurrence or series of claims, acts or occurrences;

where applicable to the Services to be delivered, medical malpractice/clinical negligence insurance with an adequate level of cover as determined by the Provider to be appropriate considering the nature and risks of the Services or as otherwise required by Law and which shall be in relation to any one claim, act, occurrence or series of claims, acts or occurrences arising from the Services.

33.3 The Provider shall give the Council, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

33.4 If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by this Agreement, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.

- 33.5 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under this Agreement. It shall be the responsibility of the Provider to determine the amount of insurance cover that will be adequate to enable the Provider to satisfy any liabilities arising under this Agreement.
- 33.6 Where the Provider is delivering the Services using persons who are self-employed or otherwise not covered by the required insurances held by the Provider the Provider shall ensure that such persons have the requisite insurance to deliver the Services. For the avoidance of doubt, the Provider shall remain liable to the Council for all acts or omissions of any such persons irrespective of whether they personally hold the requisite insurance.

34 Termination and suspension rights

- 34.1 Without affecting any other right or remedy available to it, the Council may terminate this Agreement with immediate effect or on the expiry of the period specified in the Termination Notice, without liability to the Provider, by giving written notice to the Provider if one or more of the following circumstances occurs or exists:
- 34.1.1 if the Provider is in material breach of this Agreement, which is irremediable;
 - 34.1.2 the circumstances referred to in clause 38.4 occur;
 - 34.1.3 a Persistent Breach has occurred;
 - 34.1.4 if there is an Insolvency Event;
 - 34.1.5 if there is a Change of Control of the Provider to which the Council reasonably objects, provided that the Council serves its Termination Notice within six (6) Months of the date on which the Provider informs the Council (by written notice) of the change of control or on which the Council otherwise becomes aware of the change of control;
 - 34.1.6 the Council reasonably believes that the circumstances set out in section 78(2) of the Procurement Act 2023 applies .
 - 34.1.7 the Provider commits a breach of clause 28 (Data Protection) or clause 26 (Confidentiality);
 - 34.1.8 the Provider fails to effect or maintain the required insurances under clause 33 (Insurance);
 - 34.1.9 the Provider fails to comply with or commits a breach of clause 23 (Social Responsibility and Prevent);
 - 34.1.10 the Provider commits a Prohibited Act or a Prohibited Act is committed by any of its Staff or Representatives or any person

acting upon the Provider's behalf, not acting independently of the Provider (in all cases whether or not acting with the Provider's knowledge);

34.1.11 the Provider makes an assignment or novation of this Agreement in breach of clause 45 (Assignment) or sub-contracts the Services or any part of the Services in breach of clause 44 (Sub-Contracting);

34.1.12 [Not used]

34.1.13 the Provider persistently fails to respond to any request or requirement reasonably imposed or made by the Council in accordance with the provisions of this Agreement.

34.1.14 the Provider commits a Default of this Agreement and:

- a) such Default is not remedied in accordance with the Remediation Plan Process set out in clause 38 (Remediation Plan Process for Default);
- b) the Parties fail to agree the Remediation Plan in accordance with clause 38.7;
- c) the Provider fails to implement or successfully complete the Remediation Plan in accordance with clause 38.9;

34.1.15 the Provider:

- a) fails to maintain its registration with the applicable Regulatory Body and the registration ceases;
- b) fails to comply with the Rectification Plan agreed in accordance with clause 9.8;
- c) fails to comply with a Suspension Notice issued pursuant to clause 34.11.
- d) has failed to comply with the Multi-Agency Safeguarding Policy or otherwise fails to comply with the requirements of clause 10 (Safeguarding);
- e) fails to comply with clause 18 (Disclosure and Barring Service Checks and recruitment);

34.2 Either Party may, during the continuance of a Force Majeure Event, terminate this Agreement if the circumstances in clause 39.4 arise.

34.3 The Council may give the Provider written notice of its intention to terminate if it considers that a termination ground listed in section

78(2) of the Procurement Act 2023 applies. A notice of an intention to terminate under this clause must:

- 34.3.1 set out which termination ground the Council considers applies pursuant to section 78(2) of the Procurement Act 2023 together with the Council's reasons for deciding to terminate on this basis;
 - 34.3.2 invite the Provider to make representations to the Council about the existence of the termination ground and the Council's decision to terminate;
 - 34.3.3 specify the means by which, and the time by which, such representations must be made; and
 - 34.3.4 insofar as it states the Council's intention to terminate by reference to the status of a Sub-contractor under section 78(2)(b) or (c) of the Procurement Act 2023, specify a time by which the Provider may terminate the Subcontract and, if necessary, appoint an alternative Subcontractor.
- 34.4 The Council shall be entitled to terminate this Agreement without cause (and without liability to the Provider) in whole or in part by giving to the Provider not less than six (6)} Months' notice in writing.
- 34.5 Not used

Suspension

- 34.6 Without prejudice to any of the Council's rights under this Agreement, the Council, in its discretion but acting reasonably and taking into account the representations of the Provider, shall be entitled to suspend by notice in writing to the Provider part of the Services which it would otherwise be entitled to terminate pursuant to this clause until such time as the Provider is able to demonstrate that it is able to perform the Services to standard required as set out in this Agreement without Default.
- 34.7 During the period of suspension in accordance with clause 34.66 the Council shall be entitled to abate the Agreement Price by such amount as is necessary for the Council to perform the Services itself or to engage a third party to do so.
- 34.8 The Council's rights under this clause are in addition and without prejudice to any right that the Council may have against the Provider for prior breach and to any right the Council may have against the Provider for the breach, default, negligence or event leading to the termination.
- 34.9 The remedies of the Council under this clause may be exercised successively in respect of any one or more Defaults by the Provider.
- 34.10 Notwithstanding clause 34.6, if:

- 34.10.1 a right to suspend arises under clause 9 (Regulatory Body Requirements), clause 38 (Remediation Plan Process for Default), or clause 24 (Health & Safety);
- 34.10.2 the Provider is in breach of clause 10 (Safeguarding);
- 34.10.3 the Provider or any Provider Staff is suspected of having committed a Prohibited Act;
- 34.10.4 the Provider's circumstances change at any time during the Agreement Period, such that any of the exclusion grounds set out in Schedule 6 of the Procurement Act 2023 would apply ; or
- 34.10.5 the Council acting reasonably, proportionately and in good faith, considers that there are other sufficient grounds to justify the Provider's suspension,

the Council may suspend the Provider's provision of the Services (in whole or in part and without liability to the Provider) with immediate effect by giving notice in writing ("Suspension Notice") to the Provider.

- 34.11 If the Council serves a Suspension Notice on the Provider in accordance with this clause 34, the Services (in whole or in part) shall be suspended for the period set out in the Suspension Notice or such other period notified to the Provider by the Council in writing from time to time.
- 34.12 A Suspension Notice issued by the Council shall state on the face of it that it is a Suspension Notice and shall set out the reasons why the Council considers suspension is necessary and include details of any actions or performance improvements required from the Provider including timescales for such improvement. The Provider shall be required to comply with the requirements of the Suspension Notice within the timescales set out in the Suspension Notice or such other timescale as may be agreed in writing between the Parties.
- 34.13 In the event that the Provider fails to comply with the Suspension Notice to the Council's reasonable satisfaction, the Council shall be entitled to terminate this Agreement in accordance with clause 34.1 (Termination).
- 34.14 Without prejudice to the other rights or remedies of the Council, if the Provider receives a Suspension Notice the Council may reasonably increase its monitoring and/or contract management of the Provider for such period as the Council considers necessary. The Provider may not increase the Agreement Price to take account of any additional monitoring and shall promptly reimburse the Council for any additional direct costs reasonably and necessarily incurred by the Council in respect of any such additional monitoring.

- 34.15 Notwithstanding the Council may have the right to terminate this Agreement, immediately without notice, the Council shall inform the Provider in the Termination Notice of the duration of the termination period during which it requires the Provider to continue to provide, and/or procure the provision of, some or all of the Services. The Council may extend or shorten such period by giving the Provider at least {ten (10)} Working Days' notice.

35 Consequences of expiry and Termination

- 35.1 Termination shall be without prejudice to the rights and remedies of the Provider and the Council accrued before termination and nothing in the Agreement shall prejudice the right of either Party to recover any amount outstanding as at the date of termination.
- 35.2 Upon the expiry or termination (for whatever reason) the Provider shall:
- 35.2.1 forthwith cease to provide the Services;
 - 35.2.2 cease to make use of the Intellectual Property Rights (excluding any pre-existing IPR created before commencement or separate to this Agreement) in any way whatsoever;
 - 35.2.3 be liable immediately to compensate the Council for any loss or damage it has sustained in consequence of any breaches of this Agreement by the Provider;
 - 35.2.4 where the Agreement is terminated due to the Provider's breach, fully and promptly indemnify and compensate the Council against all loss and damage suffered by the Council by reason of such termination and without prejudice to the generality of this clause shall fully and promptly indemnify and compensate the Council in respect of the cost of obtaining such replacement Services as would have been performed by the Provider during the remainder of the Agreement Period to the extent that such cost exceeds the sums that would have been lawfully payable to the Provider for providing such Services (such costs to include but not be limited to all costs of exiting/re-procuring this Agreement and entering into new agreements with Replacement Providers). The Council shall be at liberty to have such Services provided by any persons (whether or not servants of the Council) as the Council in its entire discretion thinks fit and shall act reasonably but shall be under no obligation to employ the least expensive method of having such Services provided;
 - 35.2.5 not be entitled to any further payment under the Agreement and the Council shall be entitled to retain any payment which may have fallen due to the Provider before termination under this or any other agreement or to deduct such sums from any sum due from the Provider to the Council under this or any other Agreement;

- 35.2.6 without prejudice to the Council's other rights under these clauses within ten (10) calendar days of termination at the Provider's own cost return to the Council or otherwise dispose of in accordance with the Council's instructions all and any:
- a) documents and other information and materials relating to the Services;
 - b) Council Data (which data shall if necessary upon the Council's request be transferred in compatible form on to such computer system as the Council may request) (including back-ups); and
 - c) other Council Equipment and property and software belonging to the Council which may be in the possession or under the control of the Provider;
- 35.2.7 make good to the Council any accounting discrepancy and/or loss or damage attributable to a Default by the Provider, its Staff, Sub-Contractors and agents.

Duty to co-operate

- 35.3 The Provider shall co-operate fully with the transfer of responsibility for the Services (or any of the Services), to any Replacement Provider undertaking services the same or similar to the Services in accordance with clause 35.5:
- 35.3.1 during the final six (6) Months of the Agreement Period or during the period of any notice of termination (whichever is the longer); and
 - 35.3.2 for a period of six (6) Months after the expiry or termination date of the Agreement (if reasonably required by the Council).
- 35.4 Such co-operation referred to in clause 35.3 shall include:
- 35.4.1 liaising with the Council and/or a Replacement Provider, and providing reasonable assistance and advice concerning the Services and their transfer to the Council or to such Replacement Provider;
 - 35.4.2 subject to the provisions of clause 26 (Confidentiality/Transparency), providing to the Council and/or to a Replacement Provider all and any information concerning the Services which is required for the efficient transfer of responsibility for their performance; and/or
 - 35.4.3 access, during Working Hours, to such Provider Staff who have been involved in the design, development, and provision of the Services and who are still employed by the Provider,

provided that the Council and/or the Replacement Provider shall pay the reasonable costs of the Provider actually incurred in responding to requests for access under this clause 35.4 following expiry or termination of the Agreement unless this Agreement has been terminated by the Council pursuant to 34.1 in which event such costs shall be for the sole account of the Provider.

- 35.5 The Provider shall use all reasonable endeavours to facilitate the smooth transfer of responsibility for the Services to a Replacement Provider or the Council (as the case may be) and the Provider shall not act at any time during the Agreement Period or thereafter in a way calculated or intended, directly or indirectly, to prejudice or frustrate or make more difficult such transfer (but this clause shall not prevent the enforcement by the Provider of any of its rights whether under this Agreement or otherwise).

36 Recovery of sums due

- 36.1 The Council may set off any amount owed by the Provider to the Council against any amount due to the Provider under this Agreement or under any other agreement between the Provider and the Council.
- 36.2 If the Council wishes to set off any amount owed by the Provider to the Council against any amount due to the Provider pursuant to clause 20 it shall give notice to the Provider within thirty (30) calendar days of receipt of the relevant invoice, setting out the Council's reasons for withholding or retaining the relevant Agreement Price (in whole or in part).
- 36.3 The Provider shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Provider has a valid court order requiring an amount equal to such deduction to be paid by the Council to the Provider.

37 Not used

38 Remediation Plan Process for Default

- 38.1 The Council's Representative may investigate any case where the Provider has or appears to have committed a "Default".
- 38.2 Subject to clauses 38.3 or 38.9, if the Provider commits a Default and the Default is in the reasonable opinion of the Council, capable of remedy, the Council may not terminate this Agreement without first operating the Remediation Plan Process set out in this clause 38. If the Provider commits such a Default, the Council shall give notice to the Provider which shall specify the Default in outline and the actions the Provider needs to take with respect to remedying the Default (a "Remediation Notice").

- 38.3 The Council shall be under no obligation to initiate the Remediation Plan Process described in this clause 38 if it issues a notice to terminate this Agreement pursuant to clause 34 in the circumstances set out in clauses 34.1.1 (material breach) or 34.1.3 (Persistent Breach).
- 38.4 Within ten (10) Working Days of receipt of a Remediation Notice, the Provider shall either:
- 38.4.1 submit a draft Remediation Plan, even if it disputes that it is responsible for the matters which are the subject of the Remediation Notice; or
 - 38.4.2 inform the Council that it does not intend to submit a Remediation Plan, in which event the Council shall be entitled to serve a Termination Notice.
- 38.5 The Council shall either approve the draft Remediation Plan within ten (10) Working Days of its receipt pursuant to clause 38.4.1, or it shall inform the Provider why it cannot accept the draft Remediation Plan. In the latter such circumstance, the Provider shall address all such concerns in a revised Remediation Plan, which it shall submit to the Council within ten (10) Working Days of its receipt of the Council's comments. If no such notice is given, the Provider's draft Remediation Plan shall be deemed to be agreed.
- 38.6 Once agreed, the Remediation Plan shall form part of this Agreement and shall be subject to the terms and conditions of this Agreement and the Provider shall immediately start work on the actions set out in the Remediation Plan.
- 38.7 If, despite the measures taken under clause 38.5, a Remediation Plan cannot be agreed within twenty (20) Working Days of receipt of the draft Remediation Plan pursuant to clause 38.4.1 then the Council may elect to end the Remediation Plan Process and serve a Termination Notice.
- 38.8 If a Remediation Plan is agreed between the Parties, but the Provider fails to implement or successfully complete the Remediation Plan by the required remediation plan completion date, the Council may, at its sole discretion:
- 38.8.1 terminate this Agreement by serving a Termination Notice; or
 - 38.8.2 give the Provider a further opportunity to resume full implementation of the Remediation Plan within such timescales as the Council determines; or
 - 38.8.3 take action to rectify the Default itself (including instructing an alternative service provider to rectify the same) and recover its

additional costs of doing so from the Provider as a debt and without prejudice to any other of its rights under this Agreement; or

- 38.8.4 escalate any issues arising out of the failure to implement the Remediation Plan under the dispute resolution procedure set out at clause 46 (Dispute Resolution).
 - 38.9 If, despite the measures taken under clause 38.8.2, the Provider fails to implement the Remediation Plan in accordance with its terms, the Council may elect to end the Remediation Plan Process and refer the matter for resolution by the dispute resolution procedure set out at clause 46 (Dispute Resolution) and/or serve a Termination Notice.
 - 38.10 The Council shall not be obliged to follow the Remediation Plan Process if there is a repetition of substantially the same Default as had previously been addressed in a Remediation Plan within a period of six (6) Months following the conclusion of such previous Remediation Plan or the Default constitutes a material breach. In such event, the Council may serve a Termination Notice.
 - 38.11 The Council shall be empowered, in its absolute discretion, to immediately, on giving written notice to the Provider, suspend the Services, in whole or in part and/or to make alternative arrangements for the delivery of Services if:
 - 38.11.1 the Provider fails to implement a Remediation Plan in accordance with its terms; or
 - 38.11.2 pending the successful implementation of the Remediation Plan, and
- the Provider shall cooperate with any action in this respect and the Council will not incur any liability under this Agreement as a result of any such action.
- 38.12 The Council may adjust the timescales set out in this clause 38 to such other timescales as it considers reasonable in the circumstances and taking into consideration the nature of the Default.

Warning Notices

- 38.13 Without prejudice to the Council's other rights or remedies, if at any time the Provider has committed a Default then the Council may serve a Warning Notice on the Provider, within twenty (20) Working Days of the Council becoming aware of the relevant event, setting out the matters giving rise to such notice and containing a reminder to the Provider of the implications of such notice. Any such notice shall state on its face that it is a Warning Notice.
- 38.14 If the Council undertakes an investigation in respect of the Provider's Default in accordance with clause 38.13 the date at which

the Council shall be deemed to be aware of the relevant event shall be the date upon which the investigation is concluded by the Council and a decision made as to whether the Provider has committed a Default. The Council shall then have the twenty (20) Working Days to serve a Warning Notice as set out in clause 38.13.

- 38.15 Without prejudice to the other rights or remedies of the Council, if the Provider receives a Warning Notice the Council may reasonably increase its monitoring of the Provider until such time as the Provider has demonstrated, to the reasonable satisfaction of the Council, that it will perform (and is capable of performing) its obligations under this Agreement.
- 38.16 The Provider may not increase the Agreement Price to take account of any additional monitoring and shall promptly reimburse the Council for any additional direct costs reasonably and necessarily incurred by the Council in respect of any such additional monitoring.
- 38.17 The provisions of this clause are without prejudice to the Council's right to terminate this Agreement in accordance with clause 34 (Termination and Suspension Rights) of this Agreement.

39 Force Majeure

- 39.1 Provided it has complied with clause 39.3, if a Party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event ("Affected Party"), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.
- 39.2 The corresponding obligations of the other Party will be suspended, and its time for performance of such obligations extended, to the same extent as those of the Affected Party.
- 39.3 The Affected Party shall:
 - 39.3.1 as soon as reasonably practicable after the start of the Force Majeure Event but no later than three (3) Working Days from its start, notify the other Party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration, and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and
 - 39.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 39.4 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than ninety (90) calendar days, the Party not affected by the Force

Majeure Event may terminate this Agreement by giving fourteen (14) calendar days' written notice to the Affected Party.

40 Disaster Recovery and Business Continuity

- 40.1 The Provider shall ensure that it is able to implement the provisions of the Disaster Recovery and Business Continuity Plan at any time in accordance with its terms.
- 40.2 The Provider shall test the Disaster Recovery and Business Continuity Plan on a regular basis, and in any event at least once every twelve (12) Months. The Provider shall give the Council at least five (5) Working Days' notice of each test and allow the Council to participate in them.
- 40.3 Following each test, the Provider shall:
 - 40.3.1 send to the Council a written report summarising the results of the test; and
 - 40.3.2 promptly implement any actions or remedial measures which the Council considers to be necessary as a result of those tests.
- 40.4 The Provider shall implement the Disaster Recovery and Business Continuity Plan if notified by the Council to do so.
- 40.5 Following a Force Majeure Event, the Provider shall implement the Disaster Recovery and Business Continuity Plan. If the Provider suffers a Force Majeure Event that prevents or hinders the Provider's performance of its obligations in connection with the Disaster Recovery and Business Continuity Plan for a continuous period of more than ninety (90) calendar days, the Council may terminate the Agreement on written notice to the Provider.

41 Variation

- 41.1 Except as otherwise set out in this Agreement, neither Party shall vary or amend this Agreement except as agreed by both Parties in writing and signed by duly authorised officers of the Parties. Either Party may propose a variation in accordance with the Variation Procedure set out in Schedule 11 (Variation Procedure).
- 41.2 Except as expressly provided in this Agreement, each Party shall pay its own costs incurred in connection with the negotiation, preparation, and execution of any Variation to this Agreement and any documents referred to in it.
- 41.3 Unless the Variation expressly provides for an increase, the Agreement Price shall not be increased as a result of a Variation.
- 41.4 Until such time as a Variation to this Agreement is made, the Council and the Provider shall, unless otherwise agreed in writing, continue

to comply with the terms and conditions of this Agreement and the Provider shall continue to deliver the Meals and/or Services as if the request or recommendation for such a Variation had not been made.

- 41.5 Any discussions which may take place between the Council and the Provider in connection with a request or recommendation for a Variation before the authorisation of a resultant Variation or change to this Agreement shall be without prejudice to the rights of either Party.
- 41.6 Any work undertaken by the Provider which has not been authorised in advance by a written Variation to this Agreement in accordance with this clause 41 and Schedule 11 (Variation Procedure) shall be undertaken entirely at the expense and liability of the Provider.
- 41.7 Variations implemented in accordance with this clause 41 and Schedule 11 (Variation Procedure) shall become deemed to be part of this Agreement for the purposes of all other sections, clauses, obligations and rights contained within this Agreement.
- 41.8 Any Variation to this Agreement shall be substantially in the form set out in Appendix 1 of Schedule 11 (Variation Procedure) and notwithstanding if this Agreement is executed by the Parties as a deed, the Variation need not be executed by the Parties as a deed to be considered as a valid Variation to this Agreement unless the Parties agree otherwise to execute any Variation as a deed.

42 Changes in Law

- 42.1 If, due to any change in applicable Law or regulations or their interpretation by any court of law or other governing body having jurisdiction subsequent to the date of this Agreement, performance of any provision of this Agreement shall become impracticable or impossible, the Parties hereto shall use their best efforts to find and employ an alternative means to achieve the same or substantially the same result as that contemplated by such provision.
- 42.2 In the event of a change in applicable Law as contemplated in clause 42.1 occurring, the Parties may modify this Agreement to give effect to the consequences of such change.
- 42.3 If a change in applicable Law occurs, the Provider is obliged to take all reasonable steps to mitigate the adverse impact of such change in applicable Law upon the Agreement.

43 Communications

- 43.1 The Provider shall not:
 - 43.1.1 make any press announcements or publicise this Agreement or its contents in any way; or

- 43.1.2 use the Council's name or logo in any promotion or marketing or announcement of orders, except as required by Law, any government or regulatory authority, any court or other authority of competent jurisdiction,

without the prior written consent of the Council, which shall not be unreasonably withheld or delayed.

44 Sub-Contracting

- 44.1 The Provider shall not sub-contract any part of its obligations to perform the Services without the prior written approval of the Council.
- 44.2 The Provider acknowledges that the Council giving the Provider consent to sub-contract will not relieve the Provider of its obligations under this Agreement and that the Provider will be responsible for the acts, omissions, defaults and neglect of any Sub-Contractor or any employee, agent or servant of any such Sub-Contractor, as if they were the Provider's own acts, omissions, defaults and neglect. This will be the case even if as a condition of the Council giving consent, the Council requires the Sub-Contractor to agree directly that it will carry out all the Provider's obligations under this Agreement.
- 44.3 Subject to clause 44.1, with respect to any of the obligations that the Provider proposes to sub-contract, the Provider shall provide the Council with full details of:
- 44.3.1 the specific elements of the Services which it proposes to sub-contract;
 - 44.3.2 the scope of the proposed Sub-Contract;
 - 44.3.3 the identity, and to the extent known by the Provider, the qualifications, experience and financial standing of the proposed Sub-Contractor;
 - 44.3.4 how such arrangements shall enable the Provider to meet its obligations to provide the Services; and
 - 44.3.5 such further information as the Council may reasonably request.
- 44.4 Where the Provider sub-contracts any of its obligations under this Agreement, the Provider shall remain the Council's sole point of contact for all matters falling within the scope of this Agreement and shall procure that each Sub-Contractor complies with and is bound by the requirements of this Agreement as they apply to the Provider.
- 44.5 The Provider shall procure that the Council and/or its auditors are permitted to review the financial records and data security policies of

each approved Sub-Contractor to the extent relevant to the performance of the Services.

- 44.6 Where the Provider enters into a Sub-Contract in connection with the Services it shall impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to this Agreement and shall procure that the Sub-Contractor complies with such terms.
- 44.7 The use of agency staff by the Provider for the provision of any element of the Services will not constitute sub-contracting for the purposes of this clause, as the Provider will remain solely responsible for the delivery of the Services and the agency staff will be working under the Provider's supervision, instruction and direction. Without prejudice to any other provisions of this Agreement, the Provider shall ensure and shall satisfy itself that any agency workers used by the Provider have the necessary employment and Disclosure and Barring Service checks, training, skills and expertise to deliver the Services on behalf of the Provider. The Provider will, under the principles of best practice, work to ensure that its use of agency staff kept to a minimum level.

45 Assignment and Modification

- 45.1 This Agreement is personal to the Provider and the Provider shall not assign, novate, transfer, mortgage, charge, sub-contract, or otherwise dispose of any of its rights or benefits under this Agreement or declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement other than:
- 45.1.1 with the prior written consent of the Council, which consent the Council may in its absolute discretion refuse or grant on terms acceptable to the Council {which may include but not be limited to:}
- a) the proposed new Provider fulfilling the criteria for qualitative selection initially established during the original procurement of this Agreement;
 - b) in respect of a novation:
 - i) the universal or partial succession of the Provider is due to corporate restructuring, takeover, merger, acquisition or insolvency;
 - ii) there are no other substantial modifications to this Agreement and the proposed new Provider agrees to the terms and conditions of this Agreement;
 - iii) the novation complies with Section 74 of the Procurement Act 2023 (or any equivalent or

additional requirements contained in any successor legislation);

- iv) the Council is satisfied the proposed new Provider has the capacity (including but not limited to financial standing and resources) and is capable of delivering the Services,
- v) the Council considers, acting reasonably, that such novation will not have an adverse effect on the provision of the Services or the reputation of the Council, and

provided that the Provider undertakes to pay all reasonable expenses incurred by the Council in connection with the proposed assignment or novation whether or not the assignment or novation is completed.

45.1.2 in circumstances permitted under Section 74) schedule 8 Paragraph 9 of the Procurement Act 2023.

45.2 The Council may (and the Provider shall do all things necessary to assist the Council to) at any time assign, mortgage, charge, declare a trust over or deal in any other manner with any or all of its rights under this Agreement provided that:

45.2.1 the Council shall give prior written notice of any assignment or novation to the Provider; and

45.2.2 such assignee or novatee shall have the legal capacity and sufficient financial resources to perform the obligations of the Council under this Agreement.

45.3 The Parties acknowledge that a variation may result in reduced or additional services and supplies to the Council, alternatively, or in addition, the Parties may agree for the provision of reduced or additional services including in the following circumstances:

45.3.1 where changes to education delivery plans, education needs assessment, or changing and updating of any local strategic aims and priorities occur or are necessary, the Council reserves the right to modify this Agreement including revision to any elements of the Specification, KPIs, and any agreed activity plan during the term of this Agreement to reflect the changes in order to ensure continuity of the service delivery;

45.3.2 if geographical boundaries change, or demand in geographical areas increase or decrease, throughout the duration of the Agreement, the Council reserves the right to modify the Agreement

to amend the geographical boundaries to ensure continuity of service delivery;

- 45.3.3 in response to policy and/or Guidance issued by but not limited to Central Government, Regulatory Body and or Competent Body, which impacts upon Council's delivery plans;
 - 45.3.4 if the current funding levels increase throughout the duration of the Agreement, the Council reserves the right to modify this Agreement including the Agreement Price and/or increase the Services to reflect the changes to ensure continuity of service delivery;
 - 45.3.5 if the current funding levels decrease, the Council reserves the right to review the annual Contract value and the Parties will review the Specification and agree any necessary modifications to the service as a result (including any decrease to the Services in order to ensure continuity of service delivery);
 - 45.3.6 where any developments, efficiencies and improvements are identified within the Services during the term of the Agreement, the Parties may modify this Agreement to reflect the changes to ensure service delivery;
 - 45.3.7 where during the period of this Agreement a change to the manner in which the Services are commissioned is required by operation of Secretary of State for Education or Local Government Law or policy through statutes, orders, regulations, instruments, guidance and directions made by the Secretaries of State for Education and Local Government respectively or others duly authorised pursuant to statute or other changes in the law which relate to the powers, duties and responsibilities of the Council and which have to be complied with, implemented or otherwise observed by the Council or Provider.
- 45.4 The Council shall notify the Provider of changes in the availability of funding for the Services and the required variation to the provision of the Services, including any variation required to reduce the Services required as a result of a reduction in external funding or to incorporate additional external funding that may become available to the Council during the Initial Term or Extension Periods for use on procuring the Services. In the event that a reduction to the Services is required under this clause:
- 45.4.1 the Council shall provide to the Provider written notice of such reduction in Services, such notice to be at least of equivalent length to that provided to the Council by the funder less five (5) Business Days; and
 - 45.4.2 where relevant, termination provisions as set out in clause 34 shall apply for the termination of that part of the Services;

- 45.4.3 where relevant, the Agreement Price may be reduced by an amount proportionate to the reduction in the Services provided.

46 Dispute resolution

- 46.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it ("Dispute") then the Parties shall follow the procedure set out in this clause:
- 46.1.1 either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars ("Dispute Notice"), together with relevant supporting documents. On service of the Dispute Notice, the Provider and the Council shall attempt in good faith to resolve the Dispute;
- 46.1.2 if the Provider and the Council are for any reason unable to resolve the Dispute within thirty (30) calendar days of service of the Dispute Notice, the Dispute shall be referred to the senior manager of the Provider and the senior manager of the Council who shall attempt in good faith to resolve it; and
- 46.1.3 if the senior manager of the Provider and the senior manager of the Council are for any reason unable to resolve the Dispute within thirty (30) calendar days of it being referred to them, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator shall be nominated by CEDR. To initiate the mediation, a Party must serve notice in writing ("ADR notice") to the other Party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than fourteen (14) calendar days after the date of the ADR notice.
- 46.2 No Party may commence any court proceedings (in relation to the whole or part of the Dispute) until fourteen (14) calendar days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.
- 46.3 If the Dispute is not resolved within fourteen (14) calendar days after service of the ADR notice, or either Party fails to participate or to continue to participate in the mediation before the expiration of the said period of fourteen (14) calendar days, or the mediation terminates before the expiration of the said period of fourteen (14) calendar days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 57 (Governing Law and Jurisdiction).

47 No partnership/Agency

- 47.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between the Parties,

constitute any Party the agent of the other Party, or authorise any Party to make or enter into any commitments for or on behalf of the other Party

- 47.2 Each Party confirms it is acting on its own behalf and not for the benefit of any other person.

48 Entire agreement

- 48.1 This Agreement constitutes the entire agreement between the Parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

- 48.2 Each Party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Agreement. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

- 48.3 Nothing in this clause shall limit or exclude any liability for Fraud.

49 Third party rights

- 49.1 Unless it expressly states otherwise, this Agreement does not give rise to any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement.

- 49.2 The rights of the Parties to rescind or vary this Agreement are not subject to the consent of any other person.

50 Pecuniary interests

- 50.1 Where the Provider has other business interests likely to be relevant to the needs of a Service User these must not be promoted to the Service User by the Provider or any of the Provider Staff in any way that limits choice or independence of the Service User.

51 Declaration of interests

- 51.1 The Provider shall inform the Council in writing of any elected member of the Council or employee of the Council who is involved as an employee, director or member of a management committee of the Provider at any time throughout the Agreement Period.

52 Environment

- 52.1 In performing its obligations under this Agreement, the Provider shall take all reasonable steps to minimise its adverse impact on the environment. The Provider shall ensure that its operations comply

with all applicable environmental Laws relating to waste disposal, emissions of greenhouse gases and the handling of hazardous and toxic materials and that it will, where applicable, only use packaging materials and equipment that comply with applicable environmental Laws.

52.2 The Provider shall, upon request, demonstrate to the Council how it will contribute with regard to the Hampshire County Council Climate Change Strategy and Action Plan commitments by taking specific actions and making appropriate adaptations with the aim of reducing air pollution, mitigating the impact of climate change and severe weather, reducing use of single use plastics/ items made of expanded polystyrene or oxo-degradable plastics, reducing waste and water usage and promoting sustainable travel choices.

52.3 The Provider shall have in place a suitable environmental management system for managing its environmental risks, the details of which shall be provided to the Council upon reasonable request.

53 Severance

53.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.

53.2 If one Party gives notice to the other of the possibility that any provision or part-provision of this Agreement is invalid, illegal or unenforceable, the Parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

54 Waiver

54.1 No failure or delay by a Party to exercise any right or remedy provided under this Agreement or by Law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.

55 Counterparts

55.1 This Agreement may be executed in any number of counterparts, each of which when executed shall constitute a duplicate original of

this Agreement, but all the counterparts shall together constitute the one agreement.

55.2 Transmission of an executed counterpart of this Agreement by email (in PDF, JPEG or other agreed format) shall take effect as the transmission of an executed "wet-ink" counterpart of this Agreement. If this method of transmission is adopted, without prejudice to the validity of the Agreement thus made, each Party shall on request provide the other with the "wet ink" hard copy original of their counterpart.

55.3 No counterpart shall be effective until each Party has executed at least one counterpart.

56 Notices

56.1 Notices served under this Agreement are to be delivered to:

56.1.1 for the Council: Contract Manager and

56.1.2 for the Provider: REDACTED

56.2 Any notice or other communication given to a Party under or in connection with this Agreement shall be in writing and shall be:

56.2.1 delivered by hand or by pre-paid first-class post or other next Working Day delivery service at its registered office (if a company) or its principal place of business (in any other case); or

56.2.2 sent by email to the address notified by such Party to the other Party from time to time.

56.3 Any notice or communication shall be deemed to have been received:

56.3.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

56.3.2 if sent by pre-paid first-class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service; or

56.3.3 if sent by email, at 9.00 am on the next Working Day after transmission.

56.4 This clause does not apply to the service of any proceedings or any documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

57 Governing law and jurisdiction

57.1 This Agreement and any dispute or claim (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 construed in accordance with the law of England and Wales.

57.2 Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

This Agreement including the Schedules and Appendices has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.

Executed as a Deed by affixing the
Common Seal of **Hampshire**
County Council in the presence of

Authorised Signatory

Name

Position

Authorised Signatory

Name

Position

Executed as a deed by **Compass**
Contract Services (U.K.) Ltd

.....

acting by a director, in the presence
of:

.....

Signature Of Witness:

Name Of Witness:

Address Of Witness:

Occupation Of Witness:

Schedule 1 – Specification

CS26550 – Education Catering Managed Outsource Services

SPECIFICATION

1 Introduction & Scope

- 1.1 Hampshire County Council (the Council) is seeking a supplier (the Provider) to take on provision of catering services to Educational Establishments across the county of Hampshire, following the cessation of the Council's in house service, Education Catering.
- 1.2 189 Educational Establishments have confirmed to the Council that they wish to access catering services through this Contract from the outset, with the breakdown by establishment type, pupil numbers on role etc included as Annex A to Schedule 1. These numbers reflect the schools which have chosen to “opt in” to this arrangement and are not anticipated to change significantly but may be subject to some change before the Operational Services Commencement Date. Educational Establishments are opted in for the initial period of the contract with the option to extend for an additional 2 years. This extension is dependent on the Council extending this Contract.
- 1.3 Educational Establishments that choose not to access services through this Contract at the outset will have the option of joining later during the life of the Contract and will be able to access the services under the same terms as those that were part of the Contract from the start. Establishments would only be added subject to agreement from all parties.
- 1.4 Educational Establishments may be Local Authority maintained schools, academies or pre-schools / nurseries.

2 Aims of the Contract

- 2.1 This Contract aims to provide cost-efficient, high quality catering services to Educational Establishments in Hampshire.
- 2.2 There is a requirement to find a suitable Provider who is able to provide meals which are tasty, nutritionally balanced in accordance with School Food Standards and the School Food Plan, sustainable and enable children and young people to have a healthy, enjoyable meal.

- 2.3 The Provider is required to work towards maximising uptake of school meals, both paid and funded through universal infant free school meals or income based free school meals.
- 2.3 The Provider is required to provide a service that meets all legislative requirements, while also conforming to the obligation on the Council to ensure that all Educational Establishments receive value for money.
- 2.4 The Provider may also be required to develop the provision of catering at functions or special events; refreshments at meetings and conferences; and possibly outside of School hours.
- 2.5 The Council is looking to provide a contract that meets the needs of each Educational Establishment, developing into a partnership between Council and Provider which mutually benefits both parties.
- 2.6 The Council is looking to promote flexibility to enable the Provider to use its own professionalism to work within this Agreement and respond to local needs.
- 2.7 The Council is seeking a Provider that contributes positively to a healthy school food culture in all Educational Establishments as part of service delivery.

3 The Catering Service

- 3.1 The Provider shall be responsible for the provision of ingredients, cooking, preparation and serving of meals to meet the service levels set out in the Contract and this Specification.
- 3.2 This will include the provision, preparation and service of food and beverages in the amounts and varieties agreed in order to satisfy the demand generated at the Educational Establishment.
- 3.3 For Primary Schools and Pre-Schools / Nurseries the service provided shall be:
- A minimum traditional two course, two choice (including at least one vegetarian/vegan choice), hot meal daily.
 - Further main courses may be provided where this has proven popular and cost effective.
 - Salad items are to be available daily.
 - Fresh fruit, yoghurts and at least one other second course are to be included daily.
 - Fresh bread available daily.
 - Water is to be available as the standard beverage choice.

- 3.4 A typical secondary menu for this type of service should at a minimum be:
- A cafeteria type service which offers a range of hot and cold options meeting both the needs of secondary age students and the School Food Standards requirements.
 - A complete meal option available for income based free school meal students at no more than the agreed meal price.
 - Food, snack and drink provision at multiple outlets as required by the educational establishment.
 - Food options, including “Grab and Go”, individually priced and available at breakfast (some settings) and morning break time (all settings) in addition to lunchtime.
 - Water is to be available as the standard beverage choice.
- 3.5 A typical special school menu for this type of service should at a minimum be:
- The standard primary menu, the standard primary menu with larger portion sizes, or the standard secondary menu as agreed with the individual school.
 - Pureed meals as required.
 - Other adjustments as required by the individual school – please see Annex A of Schedule 1 with specific school requirements.
 - Water is to be available as the standard beverage choice.
- 3.6 Some primary and nursery phase Educational Establishments may wish to extend the Provider’s services to cover breakfast clubs or morning break provision. This will be negotiated on a site-by-site basis.
- 3.7 There will be some Educational Establishments, listed in Annex A of Schedule 1, accessing the contract which have on-site servery facilities but no facilities to prepare food. It will be the responsibility of the Provider to ensure that these Educational Establishments receive a service equivalent to that required by 3.3.
- 3.8 Some Educational Establishments will require the Provider to prepare and clear the dining area by setting out dining furniture before service and clearing it away afterwards. This will be agreed on a site-by-site basis.
- 3.9 Any significant changes to the service provision at an Educational Establishment requires agreement from the Establishment, the Provider and the Council’s Representative.
- 3.10 The Provider shall work with each Educational Establishment to ensure the presentation of food contributes positively to wellbeing, for example by displaying non-meat options first, providing a salad bar and supporting pupils in trying new foods.
- 3.11 The Provider is required to work with each Educational Establishment to ensure the dining environment contributes positively to wellbeing, for

example using proper cutlery, plates and cups, using family-style seating or providing alternative dining zones.

- 3.12 The Provider will be required to support and display health promoting campaigns and resources alongside the catering service as agreed with each Educational Establishment on a site-by-site basis.

4 Menus and School Food Standards

- 4.1 The Provider shall plan and prepare menus, recipes, portion sizes and nutritional values in accordance with the Council's Specification and submit them for approval by the Council at least 3 months prior to implementation.
- 4.2 The Provider will be required to manage the supply of products to ensure that school menus meet the Government School Food Standards throughout the term of the Contract
<http://www.schoolfoodplan.com/wp-content/uploads/2015/01/School-Food-Standards-Guidance-FINAL-V3.pdf>
- 4.3 The Provider is required to support ethically produced and sourced products bearing accreditation such as Red Tractor Assured Food Standards, RSPCA Assured, LEAF (Linking Environment & Farming), Marine Stewardship Council, Fairtrade, Rainforest Alliance. Furthermore, all eggs used by the Provider in the provision of the service must be free range – no caged eggs will be accepted.
- 4.4 The Provider shall guarantee the freshness and quality of all ingredients used and have procedures in place to guarantee the proper sourcing practices of all ambient, chilled and frozen foodstuffs.
- 4.5 All cooked or prepared food provided by the Provider under this Contract must be cooked or prepared in accordance with recipes which have been agreed with the Council prior to their implementation. The Council reserves the right to delegate this duty to individual Educational Establishments where necessary.
- 4.6 All ingredients used by the Provider must be of high quality and comply with the product specification. Moreover, all non-food materials used for food preparation and serving shall comply with any appropriate legislation and standards.
- 4.7 The Provider shall not alter the menu, menu policy, or any portion size agreed at the start of the Contract, without the prior written approval of the Council. The Council reserves the right to delegate this duty to individual Educational Establishments where necessary.
- 4.8 To achieve variety in the food offered, the menu should offer at minimum a three week cycle. Menu items can repeat throughout this cycle, but the

majority of meals offered should be different. This menu cycle should change at least once per academic year, in line with 4.7, above.

- 4.9 Menus should seek to balance offering a variety of food experiences against popularity and uptake.
- 4.10 The Provider will be required to engage with the wider school community such as staff, students and parents to support both healthy eating and meal uptake.

5 Nutritional Guidelines and Quality of Food

- 5.1 The Provider must adhere to strict guidelines promoting healthy eating principles, ensuring that all meals provided to Educational Establishments under this Contract meet nutritional standards set forth by the Council and promote a healthy and balanced diet for students. All meals should meet the School Food Standards: [School-Food-Standards-Guidance-FINAL-V3.pdf](#)
- 5.2 The Provider is encouraged to adhere to the Government Buying Standards for food and catering services where feasible: [Government Buying Standard for food and catering services - GOV.UK](#)
- 5.3 The Provider shall minimise the use of added saturated (and/or trans fats and trans-fatty acids (TFAs)), sugar, and sodium, and to prioritise whole foods that are high in fibre and lower in fat, sugar and salt.
- 5.4 The Provider shall also minimise the use of unnecessary additives and preservatives in all food and drink options and menu items.
- 5.5 The Provider shall ensure that a consistent high standard is provided in both taste, presentation and their range, across their many sites. Where this consistency has not been achieved, the Provider should have a policy in place to address these matters.
- 5.6 The Provider is required to ensure an appropriate balance between the cost of running the service and the cost of food/ingredients that does not compromise on quality of food or taste.
- 5.7 Where Educational Establishment feedback indicates quality issues it is expected that the Provider will include a review of the cost of ingredients as part of their efforts to rectify the problem.
- 5.8 The Provider shall promote dietary diversity and encourage trying new foods.

6 Special Diets

- 6.1 The Provider is required to respond to a variety of special diet needs, including the 14 allergens, any other allergens, and the religious and/or cultural practices of students and staff.
- 6.1.1 The 14 allergens are: **celery, cereals containing gluten** (such as wheat, rye, barley and oats), **crustaceans** (such as prawns, crabs and lobsters), **eggs, fish, lupin, milk, molluscs** (such as mussels and oysters), **mustard, peanuts, sesame, soybeans, sulphur dioxide and sulphites** (if the sulphur dioxide and sulphites are at a concentration of more than ten parts per million) and **tree nuts** (such as almonds, hazelnuts, walnuts, brazil nuts, cashews, pecans, pistachios and macadamia nuts).
- 6.1.2 This also applies to additives, processing aids and any other substances which are present in the final product.
- 6.2 The Provider must have controls, including appropriate staff training, in place to effectively manage allergens and prevent cross-contamination, both during the preparation and service of food. The Provider must ensure that identification of students and staff with allergies is undertaken accurately and sensitively.
- 6.3 The Provider must have a formally documented policy in place which details how they accommodate allergen restrictions, and how these requests are recorded, reported and acted upon.
- 6.4 In the event of a cross-contamination incident, the Provider is required to notify the Educational Establishment and Council's Representative immediately. The Provider is also required to fully investigate and report the findings to the Educational Establishment and Council's Representative. Any actions arising out of the report, e.g. staff re-training, will be the responsibility of the Provider and evidence of completion provided to the Educational Establishment and Council's Representative.
- 6.5 The Provider must also ensure that they are diverse and inclusive with their offerings. This must include:
- 6.5.1 A requirement to cater for cultural and lifestyle diet needs, such as vegetarianism, veganism, beef free, pork free and egg free.
- 6.5.2 Some Educational Establishments such as special schools may have additional, specific requirements such as provision of pureed food. Current provision is listed in the data in Annex A of Schedule 1. These requirements must be accommodated by the Provider.

7 Traceability and Natasha's Law

- 7.1 The Provider must provide evidence to the Council of any records kept regarding their products and suppliers throughout the supply chain. This must include details of the source and handling of ALL ingredients used in menu items, in order to demonstrate full traceability from raw ingredient to finished product.
- 7.2 The Provider must ensure that all foodstuffs are accurately labelled, in accordance with Natasha's Law, in order to achieve effective allergen control as outlined in paragraph 6 above.
- 7.3 The Provider must ensure its staff are appropriately trained in allergen control protocols and in accordance with their obligations under Natasha's Law.
- 7.3 In line with the Food Standards Agency recommendations, the Provider must have a procedure in place to quickly trace and recall products or ingredients in the event of a food safety issue and/or contamination.

8 Quality Assurance, Monitoring and Training

- 8.1 The Provider is required to have in place a robust Quality Assurance System, in line with the principles of HACCP, and the ISO 9001 Quality Management Systems accreditation, designed to uphold the highest standards.
- 8.2 The Provider shall undertake regular audits, both internally and of its suppliers, in order to ensure regular and thorough assessments of compliance with nutritional guidelines, hygiene standards and service delivery benchmarks.
- 8.3 Regular checks at each Educational Establishment will be carried out by an Environmental Health Officer (EHO), who will provide a rating out of 5. The Provider will be responsible for ensuring that all ratings at Educational Establishments accessing services through this contract are 4 or 5. Anything less than a 4 will require the Provider to investigate and rectify, followed by a further visit and assessment by an EHO.
- 8.4 The Provider is required to support the EHO and their assessment by ensuring staff are appropriately trained and that all food safety management procedures are followed.
- 8.5 The Provider must, on request, provide to the Council a description of the supply chain for all products within the scope of the Contract, and the Quality Control at each stage of the Supply Chain (to include: temperature, weights and measure checks).
- 8.6 The Provider shall provide regular training to its staff in areas such as: food safety, sanitation, and hygiene; knife skills; menu knowledge; health and safety, healthy diets and cooking practices; nutritional

guidelines (in accordance with the School Food Plan); special diets; food waste reduction; customer service and interacting with students.

- 8.7 The Provider may be asked to provide evidence of this training upon request by the Council.
- 8.8 The Provider's area managers (or equivalent) shall meet with each Educational Establishment termly in order to discuss Provider performance, improvements and school specific matters arising. The Provider should keep records of these meetings and provide them to the Council's Representative at their scheduled review meetings.
- 8.9 The Provider is required to develop and maintain a risk log for the delivery of the services throughout the life of the contract. This should be provided to the Council's Representative prior to the implementation of the contract, and ongoing development and management of the log should be done in conjunction with the Council's Representative.
- 8.10 The risk log should include a summary of all identified risks and issues, their likelihood and impact, and all mitigating actions planned against them.

9 Food Safety and Food Hygiene

- 9.1 The Provider shall ensure that all food is protected from contamination at every stage in the provision of the Services. This includes the delivery, storage, cleaning, preparing, cooking, transporting and serving of the food and conforms to the regulations set out in all appropriate legislation, such as the Food Safety Act 1990 and any amendment thereto.
- 9.2 The Provider shall set in place the necessary food temperature recording documentation approved by the Council's Representative and shall provide and maintain food check thermometers.
- 9.3 The Council's Representative may:
 - 9.3.1 Require the Provider to provide samples of the provisions and materials used by its staff in the performance of their duties.
 - 9.3.2 Require the Provider to take out of use any piece of equipment, provisions or materials that in the opinion of the Council's Representative have by their use a detrimental effect on students, Council staff or the fabric of the Educational Establishment premises.
 - 9.3.3 Require from the Provider at any reasonable time the Provider's Safety Policy for its staff employed in the Educational Establishment.

- 9.4 The Provider shall ensure compliance with the Hazard Analysis and Critical Control Points (HACCP), and provide regular training programs to catering staff, in order to ensure that they are certified in safe food handling practices. This Provider must keep this training up-to-date throughout the lifetime of the Contract.
- 9.5 The Provider shall ensure that the health of catering staff is monitored, in order to ensure that all employees with any symptoms of illness are excluded from the food handling process, with procedures in place in order to address any foodborne illness outbreaks, or any instances of food poisoning.
- 9.6 The Provider shall ensure that on each occasion a food handler returns to work after an absence due to illness or overseas travel, the Council's Occupational Health Unit Food Handlers Return to Work Declaration procedure is followed.
- 9.7 Any medical examination or certification of any member of the Provider's staff required by the provisions of this Contract shall be arranged by and shall be the sole responsibility of the Provider.
- 9.8 The Provider shall (by the Contract's commencement date) have a formal procedure in place to report any health-related concerns relating to the Catering service to the Council and relevant Educational Establishments.
- 9.9 The Council may invite, at any time, an Environmental Health Officer or any other appropriate specialist to inspect the Educational Establishment premises and equipment of the Educational Establishment used by the Provider for the delivery of the contract Services.

10 Kitchen Hygiene and Health & Safety

- 10.1 The Provider will be responsible for ensuring that it conforms to all legislation, regulations and codes of practice and any regulations made thereunder as set out in the Contract.
- 10.2 The Provider will be responsible for cleaning, washing up, sterilisation and keeping in good order all heavy and light catering equipment, kitchen and servery areas, catering staff toilets and storerooms and dining room furniture.
- 10.3 The Provider is responsible for day-to-day cleanliness of the areas and equipment under its control. This will include the kitchen and storage areas including all the equipment therein, the serveries, goods receiving and refuse areas, catering office, catering staff lavatories, vending machines etc.

- 10.4 The Provider shall maintain (at its own cost) adequate supplies of all cleaning materials including bin bags, to enable the carrying out of the duties detailed in paragraph 10.1 above. The Provider and its staff shall use all chemicals in line with the applicable Material Data Safety Sheet (MSDS) and COSHH assessment.
- 10.5 Deep cleaning shall be carried out on three days each year, during the school holidays, preferably one day immediately prior to the start of each new school term. The specific days are to be agreed between the Provider and the Educational Establishment.
- 10.6 The Provider shall provide (at its own cost) the following to Catering staff:
- 10.6.1 An adequate supply of clean disposable towels, soap and nail brushes, at wash hand basins for the use of Catering staff;
- 10.6.2 First aid facilities in accordance with the Health and Safety (First Aid) Regulations 1981.
- 10.7 The Provider shall keep all food preparation areas used by the Provider clean and shall not allow any refuse or dirt to be deposited or allowed to accumulate there. The location of refuse generated should be agreed with the Educational Establishment.
- 10.8 The Provider shall ensure that:
- 10.8.1 No room which contains a sanitary convenience is used as a food preparation area;
- 10.8.2 No room which contains, is nearby, or connected to a sanitary convenience is used for the handling of open food, nor for the cleaning of food preparation equipment. Where this is not possible due to the existing layout of the site, the Provider is required to undertake a risk assessment and report this to the Educational Establishment and Council's Representative.
- 10.8.3 No live animal is allowed in any food preparation area.
- 10.9 The Provider shall exert the utmost vigilance in detecting signs of rodent and other vermin or insect infestation, and (when discovered) shall immediately notify the Council's Representative. The cost of eradicating such infestation will be met by the Educational Establishment. The Provider shall comply with any specific requirements to eliminate pest infestation.
- 10.10 The Provider must not discharge any grease into the building drains and must keep grease in containers for disposal by the Provider.

- 10.11 If (as a result of proven negligence on the part of the Provider or the Provider's staff) the Council/Educational Establishment incurs any costs, charge or expense involved in opening, cleaning, or repairing drains, the Provider shall be liable to reimburse the Council/Educational Establishment such costs. This shall not be considered as an operating cost as hereinafter defined.
- 10.12 The Council/Educational Establishment will be responsible for the extraction systems and canopies, overhead pipe work, wall washing (above 2 metre level) and window cleaning, as required.
- 10.13 Routine cleaning of grease filters will remain the responsibility of the Provider, with support from the Educational Establishment where required, such as removing extraction grills.
- 10.14 The Provider shall notify the Council's Representative of the requirement for any such cleaning and once notified the Council's Representative shall make the final decision as to the need for any such cleaning work to be undertaken.

11 Provider's Staff

- 11.1 The Council requires that the Provider's staff engaged in the storage, preparation, handling, and serving of food, shall be in good health and have a high standard of personal hygiene and fully comply with all relevant legislation, including the Food Safety Act 1990, the Food Safety and Hygiene (England) Regulations 2013 and the Food Information Regulations 2014 and all requirements outlined in paragraphs 8, 9 and 10 above.
- 11.2 Before taking up employment with the Provider, the Provider's staff must undergo pre-employment health screening in a manner to be approved by the Council and be certified as fit for work, and the cost of such screening will be the responsibility of the Provider. All documentation relating to such screening is to be available at the Council for inspection upon request.
- 11.3 Prior to commencing the provision of Services, the Provider shall ensure that the Provider's staff engaged for the provision of the Services are subject to an enhanced Disclosure and Barring Service check including a check against the children's barred list.
- 11.4 The Provider shall not employ any person who shows active signs of or who is under treatment for any infections or communicable disease or who is a known carrier of such diseases.
- 11.5 The Council may, on the advice of the Council's Occupational Health or Environmental Health Officer, require the Provider to suspend from duty any of its employees whose health is such that removal from the

Educational Establishment premises would be in the best interests of students or the Educational Establishment's staff or the Council's staff or the Provider's own staff.

- 11.6 The Provider will need to consider how best to communicate with their staff, especially those eligible for TUPE under this contract, as most will not have Council issued mobile phones, tablets or laptops. As part of the tender process, the Provider is required to provide a communication plan that provides a clear and robust explanation of how the Provider will communicate with its staff.
- 11.7 The Provider is required to ensure its staff's wellbeing is supported throughout the life of the Contract.

12 Pupil Premium Free Meals

- 12.1 Pupils identified by the Educational Establishment who are entitled to a Pupil Premium Free Meal are allowed food up to the Meal Price value set as per paragraph 15, below. Recording of the Pupil Premium Free Meal entitlement should be done as sensitively as possible.
- 12.2 As it is the policy of the Council to encourage free meal pupils to select at least one main meal protein item, the Provider is to ensure that a main course and dessert equating to the specification and value of the traditional set meal may be selected.
- 12.3 The Provider shall (on request and in lieu of a hot meal and to the same nutritional content and value) provide a packed lunch for both students and any staff identified by the Council as being entitled to meals free of charge, for outings taking place during term time. This packed lunch facility may also be offered to pupils and staff not entitled to a free meal.
- 12.4 The Provider will consider pupil free meals as credit meals which the Educational Establishment will refund.

13 Universal Free School Meals

- 13.1 Where applicable, the Provider is required to provide Universal Free School Meals to pupils identified by the Council.
- 13.2 The Provider will consider Universal Free Meals as credit meals which the Educational Establishment will refund.

14 Duty Meals - Staff

- 14.1 The Educational Establishment will reimburse the Provider from the Educational Establishment's delegated budget for all meals provided for those teachers and supervisory staff who have been identified by

the Educational Establishment as being entitled to a meal free of charge. The traditional meal is the accepted standard for staff duty meals.

- 14.2 Where the Educational Establishment wishes to vary the value of the duty meals provided in order to meet supervisory needs, the Provider will be required to respond to variations in the provision of duty meals and negotiate costs directly with the Educational Establishment management.

15 Meal Price

- 15.1 The Provider will sell the traditional meal outlined in paragraph 3.3 at the price submitted as part of the response to this tender. The initial meal price should be no higher than £3.10.
- 15.2 The meal price will be the same across all Educational Establishments accessing services under this contract.
- 15.3 The meal price shall be held for 12 months from the operational services commencement date of the contract. The Provider may not alter the meal price without prior agreement of the Council. No more than one price increase will be accepted in a 12 month period.
- 15.4 The Provider must use reasonable endeavours to sell the traditional meal for a price which is as close as possible to the Government funding for Free School Meals, whilst also adhering to School Food Standards and the School Food Plan.
- 15.5 Where they are broadly equivalent to the current offer, items sold as grab-and-go and through cafeteria style service at Secondary Schools must be priced at or below the current rate offered by the Council's Education Catering service, shown in Annex D of Schedule 1.
- 15.6 Increases in prices, once agreed with the Council (see 15.3) must be communicated to Educational establishments no less than half a term in advance of implementation.
- 15.7 Meals sold to anyone other than pupils at Educational Establishment premises will attract Value Added Tax at the appropriate rate.

16 Collection of Money

- 16.1 Full expectations on invoicing and payment are laid out in Annex C of Schedule 1.
- 16.2 Collection of debt from parents will be the responsibility of the Educational Establishment but should be supported by the Provider.

The Educational Establishment may choose to defer collection of debt to the Provider in some instances.

- 16.3 The Provider cannot refuse service to a pupil on the basis that their account does not have enough money in it. In these cases, the debt should be added to their account and pursued in line with 16.1, above.
- 16.4 Where the Provider is providing services for special events, the Provider will be required to agree with the Educational Establishment how collection of money will take place.
- 16.5 The provision of, and cost incurred as a result of, any online payment system will be the responsibility of the Provider and should not be charged to the Council, Educational Establishment, parent, carer or pupil.

17 Resilience

- 17.1 The Provider is required to be able to adequately meet the needs of all of the Educational Establishments accessing services under this contract.
- 17.2 The Provider should have development chefs and culinary professionals available for training of catering staff, and regularly provide this training in order to ensure consistency in practices is achieved across all sites.
- 17.3 The Provider is required to have in place robust short-term and long-term absenteeism policies, plus other policies to ensure that adequate staffing levels are consistently maintained, which meet the needs of all Educational Establishments. Service consistency must always be maintained.
- 17.4 Flexibility should be demonstrated, and the Provider may be asked to scale operations up or down quickly to meet fluctuations in demand, seasonal variations, changing needs, or to accommodate special events.
- 17.5 The Provider will provide a full service, on each required day as specified in 3.3, 3.4 and 3.5. If circumstances outside of their control make this impossible, all efforts will be made to provide as close to a full service as possible and to return to full service at the earliest possible opportunity. The minimum service level which must be provided on all required days regardless of other circumstances is meals for all pupils who are eligible for free school meals (universal or income based).
- 17.6 The method of meal ordering must be resilient and enable parents, guardians, carers and/or Educational Establishments to order meals even in the event of technical difficulties.

- 17.7 The Provider should ensure that there is sufficient availability of food to meet the needs of all students requiring a meal, including appropriate allowances for dropped meals and damage during transport. This should also enable ordering on the day and accommodation of late arrivals when required see Paragraph 16.5

18 Supply Chain Management

- 18.1 The Provider is expected to adequately manage their supply chain, in order to ensure a steady and reliable source of both ingredients for menu items, and materials for meal preparation.
- 18.2 The Provider shall have in place a procedure to guarantee the availability of key ingredients, particularly during peak seasons, or during times of supply chain disruption.
- 18.3 Importers of food and food brokers must keep a record of products and Providers from EU and LEDCs (Less Economically Developed Countries), and the Provider should record evidence of the products purchased and Providers used throughout the supply chain and make this available to the Council on request.
- 18.4 It is the responsibility of the Provider to mitigate risks related to market fluctuations, supply chain disruption, and any other external factors which may disrupt the Catering Service.

19 Educational Establishment Premises

- 19.1 The kitchen facilities are available to the Provider for the production of meals on days as agreed. Meals are routinely required by Educational Establishments every Monday to Friday (except Bank Holidays) for 39 weeks of the year with a small number of professional day closures and closures for other reasons such as bad weather or flooding. Preschools and nurseries may have requirements for additional weeks during the year.
- 19.2 The Provider shall provide the services at the Educational Establishment for the days agreed with the Council. Current school day numbers for each Educational Establishment can be found in Annex A of Schedule 1.
- 19.3 Professional day closures may occur at any time throughout the year during which time the Educational Establishment may be closed due to teacher training.
- 19.4 On such training days, the Provider may be offered the opportunity to provide the catering Services required for teachers undergoing training. Such services will be subject to negotiation on each separate occasion,

between the Provider and the Educational Establishment or their representative.

- 19.5 The Provider shall comply with any adjustments made to the school year timetable on receipt of notification from the Council's Representative, and they shall be responsible for obtaining from the Educational Establishment notification of any day-to-day variations affecting the specified services.
- 19.6 The Provider shall (in accordance with the requirements of the Council's Representative) afford all reasonable facilities for any other Providers employed by the Council/Educational Establishment or any other properly authorised authorities or statutory bodies.

20 Letting of Educational Establishment Premises

- 20.1 In some cases, it is the policy to make the kitchen facilities available to persons and/or organisations wishing to hire the Educational Establishment premises but provide their own catering.
- 20.2 The Provider may be given the opportunity to provide this catering, but where use is required by outside organisations, the Provider will be required to co-operate in making the Educational Establishment premises and equipment available.
- 20.3 In order to protect the Educational Establishment premises and maintain the highest standards of food hygiene and safety when the catering facilities are used by outside organisations, a strict "letting" procedure is in force and managed by the Educational Establishment.
- 20.4 Educational Establishment premises may be let to a third party caterer in the following circumstances:
 - 20.4.1 the Provider does not wish to provide the services required; or
 - 20.4.2 if the Provider's terms for providing the service are unacceptable; or
 - 20.4.3 where other catering arrangements are already established,
- 20.5 In such circumstances the Alternative Caterer may have restricted use of the Educational Establishment's kitchen premises and equipment and selected light equipment. Freezers, refrigerators and all other storage areas may not be used. This will be agreed between the Alternative Caterer and the Educational Establishment.
- 20.6 The Alternative Caterer is to arrange to visit the Educational Establishment's kitchen premises during kitchen working hours and agree with the Provider the equipment to be allocated and be advised on its use.

- 20.7 The Alternative Caterer is to provide all necessary food and materials and will be required to indemnify the Educational Establishment and Provider against damage or losses howsoever caused.
- 20.8 The Educational Establishment or their appointed representative will be responsible to see that the Alternative Caterer does not misuse the facilities provided and ensure that the Educational Establishment's kitchen premises and equipment are left in a clean and acceptable condition and for the security of the Educational Establishment premises throughout and at the end of the function.
- 20.9 Any costs of reinstating the Educational Establishment premises or equipment left in an unacceptable condition, or for loss or damage as a result of use by a third party, will not be the responsibility of the Provider.
- 20.10 The Provider will provide the Alternative Caterer with sufficient specialist cleaning materials required to meet the specified standards of kitchen hygiene. A nominal charge to cover the cost of such cleaning materials will be agreed between the Provider and the Council's Representative prior to their use by the Alternative Caterer.
- 20.11 Catering services provided directly by the Educational Establishment or Parent Teacher Association (PTA) on a voluntary basis may have the use of the following amenities in the Educational Establishment's catering premises free of charge:
- 20.12.1 The kitchen hatch area (for the services of beverages or light refreshments).
- 20.12.2 Electric power point (to heat water)
- 20.12.3 Washing up facilities (sink and draining board)
- 20.12 The provision of paragraph 20.5 do not apply to this voluntary provision.
- 20.13 The Provider will also be required to sterilise all preparation surfaces and any equipment used for the function, before the start of the next working day. One hour only is to be allocated for this task and the Provider is entitled to charge the Educational Establishment for this time, at an hourly rate equivalent to an HCC Grade C Step 1.

21 Equipment

- 21.1 No rental charges will be levied with regard to the building and capital equipment, which will remain the property of the Council or Educational Establishment (as appropriate) at all times.

- 21.2 Maintenance and insurance of all buildings and equipment will be the responsibility of the Council or Educational Establishment (as appropriate).
- 21.3 In the event that there is equipment failure, the Provider shall work with the Council's Representative and Educational Establishment to provide continuity of service while repair or replacement takes place.
- 21.4 It is the responsibility of the Provider to ensure that staff are trained in the correct use of all kitchen equipment.
- 21.5 All equipment must be only used in accordance with its manufactured purpose and operating instructions.
- 21.6 In the event that equipment is damaged as a result of misuse by the Provider's staff, the Provider will be liable for repair or like for like replacement.

22 Service

- 22.1 It is the responsibility of the Provider to maintain cleanliness in the kitchen and servery areas at all times.
- 22.2 The Provider's staff are required to mop up spillages and sweep dining area floors at the end of service, to ensure that the Dining Area is in a good condition for the students to use for the afternoon session.
- 22.3 The Provider's staff are required to remove the disposable waste during and at the end of the meal service.
- 22.4 The deep cleaning of floors is the responsibility of the Educational Establishment and will be undertaken in line with the Educational Establishment's cleaning rota.
- 22.5 The Provider's staff are responsible for the set up and break down of tables and chairs for service where required. This includes the requirement to wipe them so that they are clean and ready for the next use.

23 Sustainability

- 23.1 The Council has strong sustainability policies. The Provider is expected to embrace the values and principles of initiatives related to other projects that promote sustainability. The Council requires the Provider to be proactive in bringing to its attention sustainable approaches which have efficient service standards and routes to market. The Council requires short supply chains and sustained effort by the Provider in obtaining Services from small and where appropriate, local suppliers.

- 23.2 One of the Council's main climate change aims is to be carbon neutral by 2050. The Provider should have a similar target for carbon neutrality.

24 Corporate Social Responsibility (CSR)

- 24.1 The Provider shall have in place a strong Corporate Social Responsibility (CSR) policy, and demonstrate socially responsible business practices, adding value to the Council's surrounding areas.
- 24.2 The Provider shall have policies and procedures in place to minimise food waste, including (but not limited to) the potential for donation to charities, and/or food banks.
- 24.3 The Provider shall support students in receipt of Universal Free School meals and Pupil Premium Free School Meals by providing a nutritionally balanced, filling meal, and aim to maximise the uptake of such meals, and ensuring that no individual goes hungry.
- 24.4 The Provider should have strong policies to promote diversity and inclusion, in order to align with the Council's policies.
- 24.5 There is an expectation that the Provider will have wider engagement with the school community building additional values. The Provider will work with the Council's Representative to define a programme of value-added activities.

25 Hazard Factors

- 25.1 In line with the requirements of the Management of Health and Safety at Work Regulations (1999) Providers shall conduct their own Risk Assessment when delivering Services to Educational Establishments. An example of the Hazard Factors is detailed below. This categorises the main risk factors and the successful Provider should take these, and any other appropriate risks into consideration when establishing their own health and safety regime for the provision of Services to the Educational Establishments.
- 25.2 Examples of hazard factors:

Category	Hazard Factor/Comment	
General	Fires	Fire doors left closed, no smoking, awareness of the fire drill procedure and the use of properly maintained and safe electrical services are all key issues in the prevention of fires.

	Manual Handling	It will be necessary to lift or carry all Goods into the building. Providers shall ensure sufficient employees are provided. Please note no assistance will be given to the Providers employees in undertaking their duties.
	Chemical Handling	A COSHH assessment has been carried out, along with staff training to ensure chemicals are used in line with their Material Safety Data Sheets.
External Factors	Vehicles	Whilst making Services, care must be taken when driving on Educational Establishment Sites. Awareness of people is essential, especially when reversing a vehicle on sites. Access may be restricted or obscured. It is very likely that many other vehicles will be either parked or being driven on sites.
	Local Environment	At certain times of year debris i.e. mud, leaves etc. and rainwater will be trodden into the buildings creating additional slippage problems.
People	The Provider will come into contact with a wide variety of people including pupils, members of the public and Educational Establishment staff. Some Sites will be occupied by a wide range of age groups having a variety of capabilities and disabilities.	

26 Dispute Resolution

- 26.1 The Provider shall handle and resolve all complaints of any Educational Establishment or the Council in an efficient and timely manner and wherever possible all complaints must be resolved to the complete satisfaction of the Educational Establishment and the Council.
- 26.2 Upon request, the Provider will provide to the Council statistical information relating to the number, type and frequency of completed/outstanding and resolved/unresolved complaints.
- 26.3 All complaints are to be investigated and an outcome/response received within a ten (10) Working Day time frame.
- 26.4 An escalation procedure must be in place for complex or unresolved complaints. This procedure must include who is responsible for escalation, criteria for escalation, and expected response times at each escalation level.
- 26.5 In line with paragraph 8.7, above, it is expected that a representative of the Provider will meet with each Educational Establishment once per term in order to discuss Provider performance, improvements and

school specific matters arising. The Provider should keep records of these meetings and provide them to the Council's Representative at their scheduled review meetings.

27 Key Performance Indicators

27.1 The following key performance indicators (KPIs) will be in place for this contract:

KPI No.	Name	Description
1	Partial service days	No. Of days per Educational Establishment where full service was not provided e.g. only cold meals were served.
2	Meal Uptake	Percentage and number of pupils having school meals per Educational Establishment. Reported as an overall percentage of pupils on roll, as well as specifically UIFSM and Pupil Premium meals as a percentage of those eligible.
3	School Satisfaction	Average satisfaction score per Educational Establishment, gathered from feedback.
4	Compliance	Number of Quality Assurance (QA) audits held and passed. Timeliness of reporting and resolution of QA incidents.
5	Complaints	Number of complaints received and average length of time required to resolve them.
6	Dietary Management	Number of incidents of dietary mismanagement – e.g. allergen cross-contamination or number of wrong meals issued.
7	Payment Management	Monthly report on all payments under the contract.

27.2 The Provider is required to report performance against these KPIs to the Council's Representative at a frequency appropriate to the KPI. This frequency is detailed in the table in 27.3, below.

27.3 Each KPI has a minimum target the Provider is required to achieve at each reporting milestone. These are shown in the table below:

KPI No.	KPI Name	Target	Reporting Frequency
1	Partial Service Days	0 days of partial service.	Monthly
2	Meal Uptake	Above baseline	Monthly
3	School Satisfaction	80% or above	Termly
4	Compliance	100% quality audits passed.	Quarterly
5	Complaints	100% resolved within ten working days.	Quarterly
6	Dietary Management	0 incidents of dietary mismanagement	Monthly

7	Payment Management	100% of reports provided on time.	Monthly
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27.4 In the event that a KPI target is not met, the Provider is required to investigate and report why to the Council's Representative, including what actions are being undertaken to rectify the issue.

28. Mandatory Policies

28.1 The Provider is required to hold a sufficient set of policies for the effective management of the Contract. At a minimum, there should be policies for:

- Safeguarding Children's, Young People and Vulnerable Adults Policy
- Health and Safety at Work
- Equality and Diversity
- Data Protection including Provider Data Retention Policy
- Staff Absence Management
- Staff Performance
- Allergen Management
- Whistle-Blowing
- Disclosure and Barring
- Business Continuity Management Policy

28.2 The Provider is required to make these policies available to the Council's Representative on request.

29. Mobilisation

29.1 The operational services commencement date is 5 January 2026. Prior to this, the Provider is required to have made all due preparations to ensure this date is met, including meeting all TUPE obligations, training staff and menu preparation.

29.2 The Provider will be required to nominate a mobilisation manager who will be the lead contact for the Council throughout the mobilisation and implementation periods of the contract. The mobilisation manager should:

29.2.1 Be at an appropriate level of seniority within the Provider's organisation, commensurate with the scale of the project.

29.2.2 Have experience in large scale mobilisation projects of a similar type.

29.2.3 Remain in place for the length of the mobilisation process and for at least the first three months of implementation.

- 29.3 From Contract Award to Operational Services Commencement Date, weekly meetings between the Provider and the Council's Representative will be required. Following implementation, these meetings will transition to monthly.
- 29.4 During the mobilisation period, the Provider will be required to complete a Data Sharing Agreement with each Educational Establishment.
- 29.5 As part of the tender process, the Provider is required to provide a mobilisation plan. The level of detail within the plan should reflect the level of complexity within the project and provide confidence in a smooth transition. This plan should include, at a minimum:
- Assumptions made in relation to mobilisation.
 - A detailed description of all tasks, activities, meetings and milestones.
 - Provider and mobilisation project governance structures.
 - Clear escalation route and process for issues encountered during mobilisation.
 - A risk register identifying key risks associated with this process, and proposed mitigations.
 - Staff transfer and training plan.
 - Milestone plan showing key dates including TUPE and training.
- 29.6 The Provider is expected to plan mobilisation to achieve the following milestones:

Milestone	Date
Notification of Contract award	W/C 14/07/2025
Weekly mobilisation team meetings commence and continue until operational commencement date	W/C 21/07/2025
Final menus for launch agreed with Council	03/10/2025
Meal booking system and comms available to Educational Establishments to share with parents, pupils, guardians and carers	W/C 03/11/2025
Provider agrees final measures in relation to TUPE	07/11/2025
Operational commencement date and TUPE staff transfer.	12:01AM on 05/01/2026

- 29.7 As part of the tender process, the Provider is required to provide a communications plan. The level of detail within the plan should reflect the level of complexity within the project and provide confidence in a smooth transition. This plan should include, at a minimum:
- Objectives.
 - Stakeholder mapping.
 - Communication channels.
 - Communication frequency and timing.
 - Feedback mechanisms.
 - Crisis management plan.

29.8 As part of the tender process, the Provider is required to provide a completed mobilisation team template (Annex E of Schedule 1). This plan should include, at a minimum:

- Names of the Provider's project mobilisation team.
- Role titles.
- High level information about their responsibilities both on the mobilisation project and outside.
- FTE allocation of the mobilisation team to the mobilisation of the contract.

29.9 There may be existing stocks of both ingredients and cleaning chemicals left in certain Educational Establishments. It is the responsibility of the Provider to use (subject to their assessment of the viability of the products and health/food hygiene) or dispose of these products.

30. Management Fee

30.1 The Council will collect a quarterly contract management fee from the provider, calculated based on 0.8% of the total value of meals served in the previous period.

30.2 The Council will request a report detailing the value of invoices served in the previous period, and therefore the management fee to be collected. The Council will then raise an invoice to the Provider.

30.3 The Provider is required to pay these invoices within 30 days of it being issued.

31. Exit Management

31.1 At the end of the contract, the Provider will be required to work closely with the Council and any new Provider/s to ensure a smooth transition.

31.2 The Provider will ensure the transfer of all relevant data, records and assets to the Educational Establishment or Council at the end of the contract.

31.3 The Provider shall comply with all applicable TUPE regulations and ensure a smooth transition of staff to the new Provider.

31.4 The Provider shall continue to comply with all contractual obligations and maintain service quality until the contract end date.

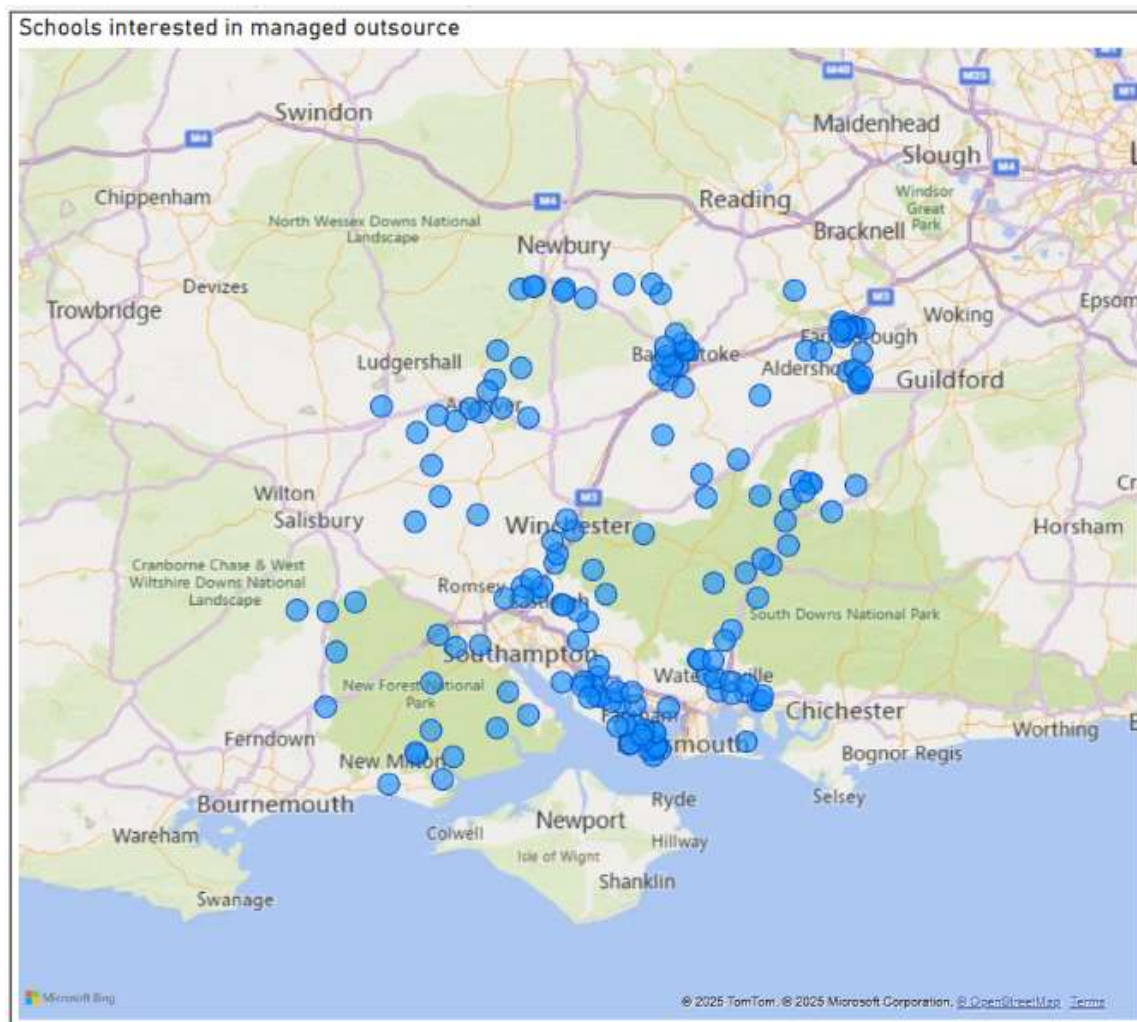
31.5 Any disputes arising during the exit process shall be resolved in accordance with the dispute resolution procedure outlined in paragraph 26.

32. Local Government Reorganisation

- 32.1 The government's [English Devolution White Paper, Power and Partnership: Foundations for Growth](#), published on 16 December 2024, states that the government wants all remaining two-tier areas in England to be eventually restructured into single-tier unitary authorities and is termed Local Government Reform (LGR). This reorganisation is part of a broader devolution strategy to simplify local government structures, save public funds, and improve local accountability. LGR will impact the County of Hampshire as it currently operates a two-tier Local Government structure.
- 32.2 It is anticipated, that during the life of this contract, the LGR process will commence and/or progress, potentially impacting this contract. Impacts may include, but are not limited to, modifications such as a novation of the legal entity you currently contract with, significant increases or decreases in the value or volume of services required due to the change in size and/or scope of the Council, and/or changes to the scope of the nature of services required. Although any contract scope changes should broadly relate to the nature of the existing scope, new services of a related nature may be required that were not previously included.
- 32.3 The scale and exact timing of the changes are unknown at this point, but it is known that LGR will impact the County of Hampshire. All suppliers who work with Hampshire County Council need to be aware and where possible, work with the Council to adapt to any changes or modifications as required to ensure smooth transition and continuity of services.

Annex 1 A Educational Establishments Tender Information - REDACTED

Annex 1 B - Map of School Locations for Managed Outsource Tender: April 2025



Annex 1 C - PAYMENT AND INVOICING

Part 1 – Payment Detail		
1	Price Per Meal	Max Price Per Meal: REDACTED
2	Contract Management Fee 0.8% of Submitted Meal Price	REDACTED
3	Total Maximum Contract Value 5 year Initial Term	REDACTED
4	Indicative Maximum Annual Value: REDACTED	

The Provider will act as principal when providing the Service to the Council and as agent when supplying The Service to the Council's Maintained Schools.

The supply of The Service to Pupils shall be treated as non-business for VAT purposes and as standard rated to Adults for VAT purposes.

The Provider will supply The Services to the Council as principal and as agent to the Academy.

The supply of The Service to Academy Pupils shall be treated as non-business for VAT purposes and as standard rated to Adults for VAT purposes.

Part 2 - Payment Plan Hampshire Maintained Schools
App Payments: The Provider is required to have an App or Online Payment Process available for the Educational Establishments/Pupils/Parents/Guardians to Order and Pay for the Meals. <i>Payment will be in advance, paid by the Educational Establishment/Pupil/parent/Guardian via the system/App directly to the Provider.</i> VAT applicable to App Payments As the agent of the Authority, the Provider will invoice the Maintained school with list of all paid for meal provision paid via the App to the school in that month, offset against the data from the App/online Payment system for income received. Any Adult Meals must be separated out clearly on the invoice The remaining balance is expected to be for the VAT. Hampshire County Council will generate all required transactions for income and expenditure and reclaim the VAT.
Cash Payments (if the Provider accepts cash payments): The Maintained School may accept cash payment from the Pupils, Parents and Guardians. If a pupil cannot pay, the Maintained School will underwrite the cash debt and reclaim from the Parent/Guardian. Where the Maintained school accepts cash, the Maintained school should be able to record this within the Payment App. VAT applicable to Cash Payments The Provider will invoice Hampshire County Council with list of all paid for meal provision paid via the App in that month, offset against the data from the App/online Payment system for income received. Any Adult Meals must be separated out clearly on the invoice The remaining balance is expected to be for the VAT. Hampshire will generate all required transactions for income and expenditure and reclaim the VAT
Free School Meal (income based or universal) payment: The Provider will invoice the Maintained school with list of FSM provision provided during that month to the school, including VAT applicable. Hampshire will generate all required transactions for income and expenditure and reclaim the VAT

Part 3- Payment Plan Academy Trusts
The Provider is required to have an App or Online Payment Process available for the Educational Establishments/Pupils/Parents/Guardians to Order and Pay for the Meals. <i>Payment will be in advance, paid by the Educational Establishment/Pupil/parent/Guardian via the system/App directly to the Provider</i> VAT applicable to App Payments The Provider will invoice Hampshire County Council with list of all paid for meal provision paid via the App in that month, offset against the data from the App/online Payment system for income received. Any Adult Meals must be separated out clearly on the invoice The remaining balance is expected to be for the VAT. Hampshire County Council will generate all required transactions for income and expenditure and reclaim the VAT. Hampshire County Council will invoice the Academy.
Cash Payments (if the Provider accepts cash payments): The Academy may accept cash payment from the Pupils, Parents and Guardians. If a pupil cannot pay, the Academy will underwrite the cash debt and reclaim from the Parent/Guardian. Where the Academy accepts cash, the academy should be able to record this within the Payment App. VAT applicable to Cash Payments The Provider will invoice Hampshire County Council with list of all paid for meal provision paid via the App in that month, offset against the data from the App/online Payment system for income received. Any Adult Meals must be separated out clearly on the invoice The remaining balance is expected to be for the VAT. Hampshire will generate all required transactions for income and expenditure and reclaim the VAT Hampshire County Council will invoice the Academy.
Free School Meal (income based or universal) payment: The Provider will invoice HCC with the list of FSM provision provided during that month to the academy including VAT applicable. Hampshire will generate all required transactions for income and expenditure and reclaim the VAT Hampshire will then invoice the correct charge to the academy.

Part 5 - Payment Plan Late payments or Debt accrued by Education Establishment (HMS or Academy)
The Maintained School, or Hampshire County Council for Academies, will pay the sums due within the payment terms. In any instance of failure for the Educational Establishments to pay the sums due within the payment terms, The Provider should attempt to resolve the issue with the Educational Establishment directly in the first instance. If no resolution is found, the Provider should escalate to HCC's Contract Manager. If disputed invoices remain, The Provider will invoice HCC for any outstanding payment from The Educational Establishments, with evidence to support this. HCC will pay the invoice and recover the cost from the Educational Establishment.
Part 6- Payment Plan Contract Management Fee – Provider to HCC
The Provider will provide a rebate of 0.8% of all meals paid to HCC (Quarterly) HCC Contract Manger will invoice the Provider after reviewing the data presented in the quarterly reports for KPIs for number of meals provided in the quarter. This charge will include VAT. The Provider must pay within 30 days of receiving the invoice from HCC.

Annex 1 D – SECONDARY SCHOOL TARIFF

Freshly prepared					
Breakfast Items		Bakery & Fresh Fruit		Meal Deal £3.00	
Bacon roll	£1.60	Homemade biscuits & cakes	£0.70	Filled jacket potato or pasta pot	
Hash brown	£1.10	Fresh Fruit from	£0.60	Homemade cake or biscuit	
Sausage baguette	£1.60				
Breakfast Muffin - sausage & egg	£1.85				
Breakfast Muffin - vegetarian	£1.85				
Breakfast Muffin - bacon & egg	£1.85				
Croissant with butter & jam	£1.20				
Porridge	£1.20				
Fresh fruit & yoghurt	£1.40				
Pancakes with syrup or fruit	£1.20				
Waffles & syrup	£1.20				
Fruit pots	£1.10				
Yoghurt & granola	£1.10				
Hydration Station		Mains		Deli Filled Wraps	
Radnor fruits 200ml	£1.20	Classics main courses	£3.20	Vegan hoisin duck	£2.50
Radnor Splash - sugar free sparkling flavoured water 330ml	£1.00			BBQ chicken	£2.50
Radnor flavoured water 330ml	£1.00			Pulled pork	£2.50
Radnor flavoured water 500ml	£1.20				
Bottled mineral water 330ml	£0.70				
Bottled mineral water 500ml	£1.00				
Flavoured milk 200ml	£0.85				
SUSO cans 250ml	£1.20				
Savoury Snacks		Lighter Choices		Real Wrap Co. Deli	
Crisps	£0.85	Filled jacket potato topped with a side salad	£2.50	Sandwiches	
Doritos	£1.10	Topped nachos	£2.50	Just cheese	£2.30
Popcorn	£0.95	Falafel with Moroccan style cous cous	£2.50	Just ham	£2.30
Snowballs	£0.90	Loaded fries or sweet potato fries	£1.80	Just tuna mayo	£2.30
Metcalfe Rice Cakes	£1.40	Pasta pot selection	£1.80	Just free range egg mayo	£2.30
Yo Yo	£1.15	Rice or noodle bowl	£2.40	Just chicken mayo	£2.30
Pop Chips	£1.00				
		Streets		Wraps	
		Snack boxes	£2.00	Chicken fajita in a tomato wrap	£2.80
		Pizza twists	£2.50	BBQ pulled pork	£2.80
		Pizzini	£2.10	Southern fried chicken	£2.80
		Pizza slice	£1.80	Chicken and sweetcorn mayo	£2.80
		Filled bagels	£1.80	The big Bombay bhaji in a tomato wrap	£2.80
		Loaded hot dog	£2.50	Sweet potato pakora in a spinach wrap	£2.80
		Chicken burger	£2.50		
		Hamburger	£2.50		
		Vegetarian burger	£2.50		
		Pastry slice	£1.80		
		Piri Piri chicken pastry slice	£2.20		
		Pork or vegan sausage roll	£1.50		
		Bacon and cheese turnover	£2.20		
		Sausage turnover	£2.20		
				Gluten Free Deli	
				Chicken and bacon salad sandwich	£2.30
				Double cheese and spring onion salad sandwich	£2.30
				Deli Toasties	
				Ham & cheese	£1.80
				Cheese	£1.80
				Cheese & baked beans	£1.80
				Deli Baguettes	
				Ham & salad	£2.50
				Coronation chicken	£2.50
				Chicken & sweetcorn	£2.50
				Cheese & cucumber	£2.50
				Hot Deli	
				Tuna melt ciabatta	£2.80
				Cheese and pizza sauce ciabatta	£2.80
				Cheese and tomato toastie	£2.50
				Ham and cheese toastie	£2.50
				BBQ chicken feast panini	£3.00
				Spicy meatball melt panini	£3.00
				Pasta Pots	
				Cheese & tomato pasta pot	£2.50
				Tuna & sweetcorn pasta pot	£2.50
				Chicken & bacon pasta pot	£2.50
				TASTE it	

Schedule 2 – Performance Monitoring

As per Section 27 of Schedule 1 – Service Specification

Schedule 3 – Payment and Invoicing

AGREEMENT PRICE: REDACTED

Meal Price : REDACTED

1 COST NEUTRAL SERVICE

- 1.1 There is no allocated budget within the Council that can subsidise the meal service for Educational Establishments. The Service aims to be one that is fully funded by through central government funding for Free School Meals, Educational Establishments, parents, carers, guardians and pupils. There can be no commitment as to the initial value of the Services and no guarantees can be made as to the on-going value of the Services.

2 MEAL PRICES AND INCREASES

- 2.1 Educational Establishments, parents, carers, guardians and pupils across Hampshire will be charged the same price for a Meal, regardless of location. This will be the “Meal Price”. All special diet Meals and ethnic Meals will be charged at the same Meal Price.
- 2.2 The meal price from 5 January 2026 will be as per the tender submitted by the successful Provider.
- 2.3 The Agreement Price shall be subject to review in accordance with Part 4 of this Schedule 3.
- 2.4 Other catering services e.g. snacks, grab and go services may be charged at the rates agreed with the Council.

3 SERVICE USER PAYMENTS

Meals

- 3.1 On behalf of the Council as agent, the Provider shall charge to, and collect from, each Educational Establishment, parent, carer, guardian and pupil the Agreement Price in respect of the Meals and other catering provision and accurate charges in relation to other catering provision.
- 3.2 The income collected by the Provider in respect of the Agreement Price and other catering provision shall be banked and retained by the Provider into its nominated bank account.
- 3.3 The Educational Establishment shall be responsible for managing collection of any bad debts relating to the Agreement Price, supported by the Provider in accordance with Part 3 of this Schedule 3.

Parents, guardians, carers and pupils

- 3.4 The Provider will offer and maintain an online payment system to enable parents, carers, guardians and pupils to pay for Meals. Any charges

incurred by this system will be met by the Provider and included within the Agreement Price.

Invoicing Educational Establishments

- 3.5 The Provider shall invoice Educational Establishments on a Monthly basis for the Meal price and other catering in respect of the Meals and other catering delivered by the Provider.
- 3.6 The Provider must have in place appropriate payments for the Educational Establishments to use, with direct debit being the preferred payment method except in circumstances where payment is being made on behalf of the Service User by a third party (which may include the Council).

4 VAT

- 4.1 Within five (5) Working Days of the end of each Month, the Provider shall submit an invoice to the Educational Establishment which details the following:
 - 4.2 the total number of Meals and other catering provided by the Provider under this Agreement for the preceding Month;
 - 4.3 The breakdown of paid for, universal infant free and income based free Meals provided by the Provider under this Agreement for the preceding Month;
 - 4.4 the cost of the Meals (plus VAT where applicable) calculated in accordance with the Agreement Price;
 - 4.5 the total sum of payments collected from Educational Establishments, parents, carers, guardians and pupils in respect of paid Meals. Income must be split between pupils and adults (showing any associated output VAT).
 - 4.6 The invoice should also be sent via email as a PDF to the Council's Contract Manager.
 - 4.7 The Council shall as soon as reasonably practicable, reconcile the VAT invoices against the agreed number of Meals and other catering services provided to Service Users.
 - 4.8 The Council shall make payment of the VAT in respect of the Meals and other catering services to the Provider in arrears by BACS (Bank Automated Clearing System) or as otherwise agreed by the Parties in writing.

PART 3 – DEBT RECOVERY

5 PARENT, GUARDIAN, CARER, PUPIL DEBT

- 5.1 The Educational Establishment will be responsible for chasing and clearing any debts, with the support of the Provider where requested.

6 EDUCATIONAL ESTABLISHMENT DEBT

- 6.1 Council shall be liable to pay any outstanding sums in respect of the Agreement Price for a Service User.
- 6.2 Where a Service User fails to make payment of the Agreement Price by the Revised Payment Date, the Provider shall notify the Council and the Council shall consider the debt and individual circumstances of the Service User. The Council shall confirm what (if any) action should be taken by the Provider in order to secure repayment of the debt.

PART 4 – PRICE REVIEW

7 AGREEMENT PRICE

Potential annual % uplift

- 7.1 The Parties will review the Agreement Price annually. Such review will consider inflation, changes to staff costs and other market factors.
- 7.2 Any adjustment to the Agreement Price shall be agreed between the Council and the Provider. Any rounding of the increased amount for the Agreement Price shall be rounded up to the nearest penny.
- 7.3 Service Users, parents, carers, guardians and pupils must be given a minimum of half a term of notice of planned price increases i.e. before October half term for a price increase in January.
- 7.4 Thereafter the total amount payable by the Council and/or Service Users shall be adjusted accordingly. The adjusted Agreement Price shall be applicable to Service Users, parents, carers, guardians and pupils with effect from the agreed date each year and shall remain in force for a minimum of 12 months until a further price review is carried out by the Parties pursuant to this Part 4 of Schedule 3.
- 7.5 Any increase to the Agreement Price shall not be retrospective.
- 7.6 Where it is considered to be to the benefit of Service Users, the Parties may agree to vary the provisions of paragraph 7.4 of this Part 4 of Schedule 3 to enable the application of any agreed uplift to be adjusted (for example, to apply half of the agreed increase in one term and the other half if the agreed increase later).
- 7.7 Price reviews will happen no more than once in each 12 month period.
- 7.8 The initial Agreement Price will be in place for at least the first year of Service delivery with any increase happening from Year 2 of Service delivery.

Potential in-year increases to the Agreement Price

- 7.9 Without prejudice to clause 42 (Change in Law) of the Agreement and paragraphs 7.1 to 7.8 inclusive of this Part 4 of Schedule 3, the Provider

may apply to the Council for a Variation to increase the Agreement Price in any Agreement Year during the Agreement Period.

- 7.10 In applying to the Council to increase the Agreement Price, the Provider shall submit an application in writing that details and evidences the justification for the request, and the measures and actions taken by the Provider to mitigate the impact of such an increase. The Provider shall respond to and provide any additional information and evidence reasonably requested by the Council. Subject to paragraph 7.12, the Council in its absolute discretion may respond to any request to increase the Agreed Price by agreeing to the Provider's request, providing a counter proposal or by rejecting the request.
- 7.11 If the Council makes a counter proposal in connection with any application of the Provider pursuant to paragraph 1.10 of this Part 4 of Schedule 3, any such counter proposal shall not be an admission or acceptance on the part of the Council of any right of the Provider to any increase in the Agreement Price.
- 7.12 Where the Provider can evidence that an increase in the Agreement Price is necessary to ensure that the Provider is operating the Service sustainably and that no alternative measure or mitigations can be taken, the Council will not unreasonably withhold its consent to the requested increase.
- 7.13 Any increase to the Agreement Price shall not be retrospective in relation to the date of the Provider's application for such an increase and the Parties shall agree in writing, as a Variation, the date from which any change to the Agreement Price shall apply.

Decrease to the Agreement Price

- 7.14 The Provider shall be entitled to apply to the Council for a Variation to reduce the Agreement Price payable at any time during the Agreement Period.
- 7.15 Where the Council agrees to any reduction, the Provider and the Council shall agree in writing as Variation a date whereby the changes shall take effect.

PART 5 – INVOICING AND PAYMENT TERMS

1 INVOICING

- 1.1 Invoicing and payments in respect of the Agreement Price and other catering provision shall be made in accordance with this Part 5 of Schedule 3.
- 1.2 The Service Provider shall submit invoices in respect of:
- 1.3 Paid for Meals and other catering provision, universal infant free school Meals, income based free school Meals and adult Meals;

- 1.4 VAT in accordance with paragraph 4 of Part 2 of this Schedule 3; and
- 1.5 The Council reserves the right to query any invoice submitted by the Provider pursuant to this Schedule 3, and to request further information or records from the Provider, at any time, to evidence the amounts stated in any invoice. Where the Provider fails without due cause to provide verifiable records to the reasonable satisfaction of the Council to evidence the amounts stated in the invoice then the Council shall be entitled to withhold payment until such time as verifiable records are provided.
- 1.6 Subject to paragraph 2 (Disputed Sum) of this Part 5 of Schedule 3, the Maintained Schools will pay all valid and undisputed invoices submitted in accordance with Schedule 3, within thirty (30) calendar days of receipt.
- 1.7 Subject to paragraph 2 (Disputed Sum) of this Part 5 of Schedule 3, the Council will pay on behalf of Academies all valid and undisputed invoices submitted in accordance with Schedule 3, within thirty (30) calendar days of receipt.
- 1.8 The Council or maintained school will return to the Provider, unpaid, any incorrect invoice for correction and resubmission. The Provider shall reissue the invoice showing the correct amount and any other required information within ten (10) calendar days of such notification. The Council or maintained school shall pay the Provider no later than a period of thirty (30) calendar days from the receipt of a valid and undisputed invoice.
- 1.9 The Council requires the Provider to submit invoices in a timely fashion and would not expect the Provider to submit invoices more than three (3) Months after the date on which the relevant Services were delivered where no reasonable justification for such delay is evident. Without prejudice to this right, late invoicing by the Provider (where there is no reasonable justification for the delay) may be treated as a Default by the Provider.
- 1.10 Where the Provider is suspended in accordance with clause 34 (Suspension) of the Agreement and the Council needs to make alternative arrangements with another provider for the Services to be delivered to Service Users and such arrangements incur additional cost(s) then the Council reserves the right to recover such additional cost(s) at no expense to itself by offsetting these additional costs against any payments due to the Provider without notice to the Provider or where no other payments are due to recover such additional cost(s) from the Provider as a debt.

2 DISPUTED SUMS

- 2.1 Where any Party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be referred to the Dispute Resolution Procedure (For the purpose of this paragraph 2 of part 5 Schedule 3, Dispute Resolution Procedure means the procedure set out in clause 46 of this Agreement).
- 2.2 Interest due on any sums in dispute shall not accrue until the earlier of thirty (30) days after:

- 2.3 resolution of the dispute between the Parties; or
- 2.4 receipt of the decision of the mediator in accordance with the Dispute Resolution Procedure.
- 2.5 The Provider shall not be entitled to suspend or otherwise decline to perform the Services or any other obligation of the Provider under this Agreement in whole or in part, as a result of any late or overdue payment by the Council or any dispute as regards payment unless it is entitled to terminate this Agreement in accordance with its terms.

3 INTEREST ON OVERDUE PAYMENTS

- 3.1 Either Party shall pay interest on any overdue undisputed sum properly invoiced under this Agreement at the applicable rate under the Late Payment of Commercial Debts (Interest) Act 1998, accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment.

4 RECOVERY OF SUMS DUE AND SET-OFF

- 4.1 The Council reserves the right to reclaim from the Provider any monies that have been wrongly paid by the Council and/or claimed by the Provider under this Agreement. The Council also reserves the right to reclaim any monies that have been paid for the Services where the Provider has failed to deliver or complete the Services or to deliver the Services to the level required by this Agreement. Any overpayment by the Council or Educational Establishment of the Agreement Price, other catering services, VAT or otherwise shall be a sum of money recoverable by the Council from the Provider.
- 4.2 Whenever any sum of money shall be recoverable from or payable by the Provider to the Council under this Agreement (including any sum that the Provider is liable to pay to the Council in respect of any breach of this Agreement), the same may be deducted from any sum then due or which may become due to the Provider under this Agreement or any other contract with the Council.
- 4.3 The Provider shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise, unless the Provider has a valid court order requiring an amount equal to such deduction to be paid by the Council to the Provider.

5 ACCURACY OF PAYMENTS

- 5.1 The Provider shall install and implement such apparatus and systems as the Council may reasonably require from time to time to ensure that the Council, educational establishments, parents, carers, guardians and pupils are charged for and pay only such amounts as is obliged to under this Agreement.

Schedule 4 – Disaster Recovery and Business Continuity Plan

Schedule 5 – Data Sharing Agreement Schedule

1 Introduction

This Data Sharing Agreement has been drafted in order to facilitate the services delivered by the Provider under the Agreement for the provision of Education Catering Managed Outsource Services (the Services).

2 Objectives and purpose of the Information sharing

2.1 The purposes of the sharing of personal data is to facilitate the Provider delivering the Services

2.2 The parties to this agreement (the Partner Organisations) agree that personal data, shared under this arrangement between the Council and the Provider will be used for the purposes set out in section 2 of this agreement and will not be used for commercial or marketing purposes.

3 What data will be shared and how long will it be kept?

3.1 The Provider to the Council

3.1.1 It is anticipated that the Provider will share personal data with the Council in the event of an incident occurring in an Education Establishment in the course of the Services being provided that requires intervention by the Council as the authority with overall responsibility for the contract. This information may relate to staff members, parents or children. It may include names, contact details, and health data.

3.1.2 The Personal Data will be stored and disposed of in accordance with the Council's data retention policy.

3.2 The Council to the Provider

3.2.1 It is anticipated that the Council may share personal data with the Provider in the course of investigating any report by the Provider of an incident occurring in an Education Establishment in the course of providing the Services

3.2.2 The Personal Data will be securely stored and disposed of in accordance with the Provider's data retention policy.

4 Data Controller

4.1 Each Partner Organisation will continue to be a data controller for the Personal Data it holds and retain the responsibilities held with this position.

4.2 Each Partner Organisation confirms that it is registered as a data protection fee payer with the Information Commissioner's Office where required.

4.3 Each Partner Organisation will become a separate data controller for the data received for the purposes defined in paragraph 2 of this agreement.

- 4.4 Each Partner Organisation as a Data Controller acknowledges its obligations under the UK GDPR and DPA 2018 when processing Personal Data.
- 4.5 Each Partner Organisation agrees that they will only process Personal Data shared under this agreement within the UK. Should they wish to process Personal Data outside the UK they will obtain the prior written consent from the signatory of the Partner Organisation.

5 Arrangements for the safe transmission of data

- 5.1 The Personal Data shared between the Partner Organisations will be shared using secure methods of transfer.
- 5.2 Personal Data will be transferred between the Partner Organisations using secure, encrypted channels to ensure confidentiality and integrity during transit. Methods of transfer may include secure file transfer protocols (e.g., SFTP), encrypted email using TLS, or access-controlled cloud-based collaboration platforms that comply with relevant data protection regulations.
- 5.3 Once the Personal Data is shared between the Partner Organisations it will be necessary for it to be stored securely to ensure it is protected and is not easily accessible. All approved officers within the Council and the Provider must ensure that they take appropriate measures against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to Personal Data.
- 5.4 Prior to transfer, data files will be encrypted using AES-256 encryption or equivalent, and passwords or decryption keys will be shared through separate communication channels. Transfers will be logged and monitored to ensure traceability and accountability.

6 Legal Justification for Sharing the Data

- 6.1 The Council's lawful basis for sharing the Personal Data with the Provider will be Article 6(1)(e) UK GDPR as the sharing is necessary for the performance of a task carried out in the public interest. The Council will rely on the condition under Article 9(2)(g) for processing special category data as the processing is necessary for reasons of substantial public interest.
- 6.2 The Provider's lawful basis for sharing the Personal Data with the Council will be Article 6(1)(f) UK GDPR as the sharing is necessary for the Legitimate Interest.
- 6.3 **Processing on the basis of consent : NOT USED**

If you are relying on consent:

The sharing of personal information covered by this Agreement is based on the informed consent from the data subject or carer evidenced by a clear affirmative

action. Pre-ticked boxes are not adequate. Data subjects must be informed of their right to withdraw consent.

NOT USED

7 Privacy Notices

- 7.1 The Partner Organisations recognise their duty under the UK GDPR to provide information pro-actively and on request to individuals about how their information is processed.
- 7.2 Each Partner Organisation will ensure that their privacy notices give details of the processing of Personal Data and will be provided when:
 - 7.2.1 the data is collected from a data subject; or
 - 7.2.2 they receive Personal Data from another organisation.
- 7.3 The sharing of information under this Agreement is covered by relevant privacy notice(s) published by each Partner Organisations.

8 Responsibilities when Sharing Information

General

- 8.1 Each Partner Organisation shall be responsible for ensuring that they have appropriate technical, organisational and security measures in place to protect the Personal Data and to ensure the lawful use of such information shared under this Agreement.
- 8.2 Each Partner Organisation accepts responsibility for independently auditing compliance.
- 8.3 Each Partner Organisation shall ensure that their staff comply with their rules and policies in relation to the protection and use of shared Personal Data and that staff have received sufficient training and are aware of their individual responsibilities in relation to data protection and the confidentiality, integrity and availability of Personal Data. Each Partner Organisation will ensure that appropriate sanctions and disciplinary procedures are in place to deal with non-compliance.
- 8.4 Each Partner Organisation shall have a written policy for the retention and disposal of the Personal Data shared under this Agreement.
- 8.5 Each Partner Organisation shall be aware that consent should only be relied on as the basis for processing and sharing the Personal Data where there are no other legal bases under the UK GDPR. The Partner Organisations shall be aware that a data subject may withdraw consent without detriment at any time to the processing of their Personal Data.

Personal Data

- 8.6 Personal Data may only be shared where there is a specific lawful basis under Article 6 UK GDPR and Article 9 UK GDPR.
- 8.7 Staff of either Partner Organisation may only be permitted access to the Personal Data shared under this Agreement when necessary in order for them to perform their duties in connection with the services they are required to deliver.
- 8.8 This Agreement does not permit unrestricted access to the Personal Data held by the other Partner Organisation. It sets out the parameters for the safe and secure sharing of information for a justifiable need to know purpose.
- 8.9 Each Partner Organisation shall be responsible for ensuring every member of its staff with access to the Personal Data shared under this Agreement is aware of and complies with their obligation under the UK GDPR, DPA 2018, their common law duty of confidentiality and the responsibility to disclose information only to those who have a right to see it (see 4 above).
- 8.10 Each Partner Organisation shall ensure that any of its staff accessing information follow the principles and standards that have been agreed and incorporated within this Agreement.

9 Security

- 9.1 The Partner Organisations shall have appropriate technical and organisational measures in place to protect the security, confidentiality, integrity and availability of the Personal Data (both electronic and hard copy) during all stages of processing. (eg transfer, storage, access and deletion).

10 Training

- 10.1 All Partner Organisations will ensure that any staff processing information shared under this Protocol are trained in data protection and are fully aware of their responsibilities to maintain the accuracy, security and confidentiality of Personal Data in an efficient and lawful manner. Staff will also be made aware of the requirements to provide privacy notices when sharing or receiving Personal Data.

11 Individual Responsibilities

- 11.1 Every individual working for the Partner Organisations is responsible for the safekeeping of any Personal Data they obtain, handle, use and disclose.
- 11.2 Every individual should know how to obtain, use and share Personal Data they legitimately need to do their job.
- 11.3 Every individual should follow the guidelines set out in this Agreement and seek advice when necessary.

12 Data Accuracy, Rectification, Erasure and Portability

- 12.1 Each Partner Organisation will ensure that the Personal Data they process and share under this agreement is accurate and up to date.
- 12.2 Each Partner Organisation shall inform the other of any rectification or erasure of Personal Data or restriction of processing as required under Article 19 UK GDPR.

13 Data Subject Requests

- 13.1 Every individual has data subject rights under Articles 15 – 22 UK GDPR in respect of their Personal Data.
- 13.2 Each Partner Organisation will process Data Subject Requests for the information it holds in line with their existing policies and practices, redirecting requestors under existing procedures, when the request is for data not held by that Partner Organisation.
- 13.3 For the avoidance of doubt personal information supplied by the Partner Organisation will be treated as third party.

14 Data Protection Incidents

Data Loss Event notification

- 14.1 On becoming aware of a Data Loss Event regarding the Personal Data processed by the Provider when delivering the Services, the Provider's named contact will alert the Council's Data Protection Officer at data.protection@hants.gov.uk within 24 hours.
- 14.2 On becoming aware of a Data Loss Event regarding the data identified in section 3.2, the Council will alert the Provider named contact: [] in writing within 24 hours.
- 14.3 The Partner Organisation that lost/compromised the data will investigate the breach and will contact the ICO where if necessary.
- 14.4 The Partner Organisations will ensure that they implement any changes to processes or procedures required as a result of a data incident.

Schedule 6 – TUPE

1 Interpretation

1.1 The definitions and rules of interpretation in this paragraph 1 apply in this Schedule 6.

Acquired Rights Directive	means Directive 77/187/EEC as amended and updated.
Data Protection Legislation	means all applicable data protection and privacy legislation in force from time to time in the UK including without limitation the UK GDPR; the Data Protection Act 2018 (and regulations made thereunder) (" DPA 2018 "); and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and any successor legislation.
Employee Liability Information	means the information that a Transferor is obliged to notify to a Transferee under Regulation 11(2) of TUPE: (a) the identity and age of the employee; (b) the employee's written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996); (c) information about any disciplinary action taken against the employee and any grievances raised by the employee, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes applies, within the previous two (2) years; (d) information about any court or tribunal case, claim or action either brought by the employee against the Transferor within the previous two (2) years or where the Transferor has reasonable grounds to believe that such action may be brought against the Provider arising out of the employee's employment with the Transferor; and (e) information about any collective agreement that will have effect after the Transfer Date or the Service Transfer Date, as the case may be, in relation to the employee under regulation 5(a) of TUPE.
Employment Liabilities	means all claims, including without limitation claims for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy or maternity, or sexual orientation discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims (whether in tort, contract, statute or

	otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation 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, and any legal costs and expenses;
Provider's Final Staff List	means the list of all the Provider's and Sub-Contractor's personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the Service Transfer Date;
Provider's Provisional Staff List	means the list prepared and updated by the Provider of all the Provider's and Sub-Contractor's personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the date of the preparation of the list, and in the format requested by the Council;
Redundancy Costs	means statutory redundancy payments, contractual redundancy payments and contractual notice pay payable by the Provider in respect of any Transferring Employees or Third Party Employees or any other Staff;
Relevant Employees	means those employees who are employed in the delivery of the provision of the Services and whose contracts of employment transfer with effect from the Service Transfer Date to the Council or a Replacement Provider by virtue of the application of TUPE;
Relevant Transfer	means a relevant transfer of the Services (or any part of the Services) for the purposes of TUPE;
Relevant Transfer Date	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place and the first Relevant Transfer Date shall occur on Operational Services Commencement Date;
Replacement Services	means any services that are fundamentally the same as any of the Services and which the Council receives in substitution for any of the Services following the termination or expiry of this Agreement, whether those services are provided by the Council internally or by any Replacement Provider;
Replacement Provider	means any third party provider of Replacement Services appointed by the Council from time to time
Replacement Sub-Contractor	means any contractors or service providers engaged by the Replacement Provider (or a sub-contractor of the Replacement Provider) to provide goods, services or works to, for or on behalf of the Replacement Provider for the purposes of providing the Services;

Service Transfer Date	means the date on which the Services (or any part of the Services), transfer from the Provider or Sub-Contractor to the Council or any Replacement Provider;
Staffing Information	means in relation to all persons detailed on the Provider's Provisional Staff List, in an anonymised format, such information as the Council may reasonably request including the Employee Liability Information and details of whether the personnel are employees, workers, self-employed, contractors or consultants, agency workers or otherwise, and the amount of time spent on the provision of the Services;
Sub-Contractor	means the contractors or service providers engaged by the Provider (or a sub-contractor of the Provider) to provide goods, services or works to, for or on behalf of the Provider (or a sub-contractor of the Provider) for the purposes of providing the Services to whom the contract of employment of any Transferring Employee or Third Party Employee is transferred pursuant to the Regulations on or after the Relevant Transfer Date;
Subsequent Transfer	means, following the commencement of this Agreement, circumstances whereby the identity of the provider of the Services (or any part of the Services) changes (whether as a result of termination of this Agreement, or part or otherwise) resulting in a transfer of the Services in whole or in part from the Provider or a Sub-Contractor to the Council or Replacement Provider or Replacement Sub-Contractor;
Third Party Employees	employees of Third Party Employers whose contracts of employment transfer with effect from the Relevant Transfer Date to the Provider or Sub-Contractor
Third Party Employers	means: (a) a provider engaged by the Council or an Education Establishment (including sub-contractors of such provider) to provide some of the Services and (b) an Education Establishment providing some of the Services to itself before the Relevant Transfer Date and whose employees will transfer to the Provider or Sub-Contractor on the Relevant Transfer Date by virtue of the application of TUPE;
Transferor and Transferee	has the meaning given in TUPE;
Transferring Employees	employees of the Council whose contracts of employment transfer with effect from the Relevant Transfer Date to the Provider or to a Sub-Contractor by virtue of the application of TUPE.

TUPE	means the Transfer or Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246), as amended.
TUPE Information	has the meaning given in paragraph 3.6;
UK GDPR	means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data as it forms part of the law of England and Wales, Scotland and Northern Ireland by virtue of section 3 of the European Union (Withdrawal) Act of 2018.

- 1.2 All other words, terms and expressions used in this Schedule 6 (TUPE) shall have the meanings given to them in clause 1 (Definitions) of this Agreement.
- 1.3 Where a provision in this Schedule imposes an obligation on the Provider to provide an indemnity, undertaking or warranty, the Provider shall procure that each Provider's Sub-Contractor shall comply with such obligation and provide such indemnity, undertaking or warranty to the Council, Replacement Provider or Replacement Sub-Contractor, as the case may be.
- 1.4 Notwithstanding any other provisions of this Schedule 6, where in this Schedule 6 the Council accepts an obligation to procure that a Third Party Employer does or does not do something, such obligation shall be limited so that it extends only to the extent that the Council's contract with the Third Party Employer contains a contractual right in that regard which the Council may enforce, or otherwise so that it requires only that the Council must use reasonable endeavours to procure that the Third Party Employer does or does not act accordingly.
- 2 Transfer of Employees to the Provider on the Service Transfer Date**
- 2.1 The Council and the Provider agree that where the identity of the provider of any of the Services changes, this shall constitute a Relevant Transfer and the contracts of employment, other than in relation to any benefits in respect of old age, invalidity or survivors under any occupational pension scheme, of any Transferring Employees and Third Party Employees shall transfer to the Provider or Provider's Sub-Contractor. The Provider shall comply and shall procure that each Sub-Contractor shall comply with their obligations under TUPE. The first Relevant Transfer shall occur on the Operational Services Commencement Date.
- 2.2 The Council shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Transferring Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, National Insurance contributions, pension contributions and otherwise, up to the Relevant Transfer Date. The Council shall provide and, where necessary, update the Employee Liability Information for the Transferring Employees to the Provider, as required by TUPE. The Council

shall warrant that such information is complete and accurate as it is aware or should reasonably be aware as at the date it is disclosed.

- 2.3 Subject to paragraph 2.4, the Council shall indemnify and keep indemnified the Provider against any losses, except indirect losses, incurred by the Provider or any relevant Sub-Contractor in connection with any claim or demand by any Transferring Employee arising out of the employment of any Transferring Employee. This indemnity shall apply provided that it arises from any act, fault or omission of the Council in relation to any Transferring Employee prior to the Relevant Transfer Date (except where such act, fault or omission arises as a result of the Provider or any relevant Sub-Contractor's failure to comply with regulation 13 of TUPE) and any such claim is not in connection with the transfer of the Services by virtue of TUPE on the Relevant Transfer Date.
- 2.4 The Provider shall be liable for and indemnify and keep indemnified the Council and any Third Party Employer against any Employment Liabilities arising from or as a consequence of:
 - 2.4.1 any proposed changes to terms and conditions of employment the Provider or Sub-Contractor may consider making on or after the Relevant Transfer Date;
 - 2.4.2 any of the employees informing the Council and any Third Party Employer they object to being employed by the Provider or Sub-Contractor pursuant to Regulation 4(7) of TUPE; and
 - 2.4.3 any change in identity of the Transferring Employees' and Third Party Employees' employer as a result of the operation of TUPE; or
 - 2.4.4 the result of any proposed measures the Provider or Sub-Contractor may consider taking on or after the Relevant Transfer Date.
- 2.5 The Provider shall, and shall procure that any relevant Sub-Contractor shall, be liable for and indemnify and keep indemnified the Council and any Third Party Employer against any failure to meet all remuneration, benefits, entitlements and outgoings for the Transferring Employees, Third Party Employees and any other person who is or will be employed or engaged by the Provider or any Sub-Contractor in connection with the provision of the Services, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions, termination costs, and otherwise from and including the Relevant Transfer Date.
- 2.6 The Provider shall immediately on request by the Council and/or any Third Party Employer provide details of any measures that the Provider or any Sub-Contractor envisages it will take in relation to any Transferring Employees or any Third Party Employees, including any proposed changes to terms and conditions of employment. If there are no such measures, the Provider will give confirmation of that fact, and shall indemnify and keep indemnified the Council and any Third Party Employer against all

Employment Liabilities resulting from any failure by it to comply with this obligation.

2.7 The Provider shall and shall procure that each and every Sub-Contractor shall in accordance with Regulation 6 of TUPE recognise the trade unions representing the Transferring Employees.

2.8 The Provider shall ensure that any Sub-Contract entered into pursuant to this Agreement contains equivalent provisions to those set out in this Schedule 6 (TUPE).

3 Employment exit provisions

3.1 This Agreement envisages that subsequent to its commencement, the identity of the Provider of the Services (or any part of the Services) may change (whether as a result of expiry or termination of this Agreement or otherwise) resulting in a transfer of the Services in whole or in part.

3.2 Where a Subsequent Transfer constitutes a Relevant Transfer then the Council or Replacement Provider or Replacement Sub-Contractor will inherit liabilities in respect of the Relevant Employees with effect from the relevant Service Transfer Date.

3.3 The Provider shall and shall procure that any Sub-Contractor shall:

3.3.1 on request from the Council on a date not more than twelve (12) months immediately preceding the expiry of this Agreement and/or any review date; and/or

3.3.2 on receiving notice of termination of this Agreement (on whatever grounds and in whatever circumstances) or otherwise; and/or

3.3.3 at such times as required by TUPE

provide promptly (and in any event within ten (10) days of request) and at no cost to the Council, in respect of any person engaged or employed by the Provider or any Sub-Contractor in the provision of the Services, the Provider's Provisional Staff List and the Staffing Information together with any additional information required by the Council (notwithstanding this may be beyond the information required to be provided under TUPE), including information as to the application of TUPE to the employees. The Provider shall notify the Council, within ten (10) days of the event (and in any event before the Service Transfer Date), of any material changes to the information supplied, discovery of further relevant information or on receipt of a request for or clarification or amplification by the Council.

3.4 At least twenty eight (28) days prior to the Service Transfer Date, the Provider shall and shall procure that any Sub-Contractor shall prepare and provide to the Council and/or, at the direction of the Council, to the Replacement Provider, the Provider's Final Staff List, which shall be complete and accurate in all material respects. The Provider's Final Staff

List shall identify which of the Provider's and Sub-Contractor's staff/personnel named are Relevant Employees.

- 3.5 The Council shall be permitted to use and disclose the Provider's Provisional Staff List, the Provider's Final Staff List and the Staffing Information for informing any tenderer or other prospective Replacement Provider for any services that are substantially the same type of services as (or any part of) the Services.
- 3.6 The Provider warrants to the Council and the Replacement Provider that the Provider's Provisional Staff List, the Provider's Final Staff List, the Employee Liability Information and the Staffing Information (the "TUPE Information") will be true and accurate in all material respects and that no persons are employed or engaged in the provision of the Services other than those included on the Provider's Final Staff List.
- 3.7 The Provider shall and shall procure that any Sub-Contractor shall ensure at all times that it has the right to provide the TUPE Information to the Council (including, but not limited to, for the purposes of the Council managing this Agreement with the Provider, monitoring the delivery of the Services and in relation to exit/succession planning and/or re-procurement of the Services on the expiry or termination of this Agreement (in whole or in part)) and any Replacement Provider under the Data Protection Legislation.
- 3.8 The Council regards compliance with this paragraph 3 as fundamental to this Agreement.
- 3.9 Any change to the TUPE Information which would increase the total employment costs of the staff in the twelve (12) Months prior to expiry or termination of this Agreement shall not (so far as reasonably practicable) take place without the Council's prior written consent, unless such changes are required by law. The Provider shall and shall procure that any Sub-Contractor shall supply to the Council full particulars of such proposed changes and the Council shall be afforded reasonable time to consider them.
- 3.10 In the twelve (12) Months prior to expiry or termination of this Agreement or from the date of service of a termination notice of this Agreement, (whichever is the longer) the Provider shall not and shall procure that any Sub-Contractor shall not materially increase or decrease the total number of staff/personnel listed on the Provider's Provisional Staff List, their remuneration, or make any other change in the terms and conditions of those employees or transfer or remove from the performance of the Services any supervisory or managerial staff/personnel without the Council's prior written consent (such consent not to be unreasonably withheld or delayed).
- 3.11 The Provider shall indemnify and keep indemnified in full the Council and each and every Replacement Provider against all Employment Liabilities arising from or connected with:

- 3.11.1 any person who is or has been employed or engaged by the Provider or any Sub-Contractor in connection with the provision of any of the Services;
- 3.11.2 any trade union or staff association or employee representative (where such claim arises as a result of any act, fault or omission of the Provider and/or any Sub-Contractor);
- 3.11.3 any failure by the Provider and/or any Sub-Contractor to comply with any legal obligation, whether under regulation 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE, under the Acquired Rights Directive or otherwise and, whether any such claim arises or has its origin before or after the Service Transfer Date.
- 3.11.4 any failure by the Provider or any Sub-Contractor to supply or delay in supplying the Staffing Information, the Provider's Provisional Staff List, the Provider's Final Staff List and the Employee Liability Information and any other information herein required (or inaccuracy or incompleteness of the same) or to inform and consult in accordance with TUPE;
- 3.11.5 any failure on the part of the Provider or any Sub-Contractor to provide the Relevant Employees with any benefit of any nature including any pension provision or failure to make all due payments to the Relevant Employees or applicable pension fund;
- 3.11.6 any failure or omission of any legal or statutory obligation on the Provider;
- 3.11.7 any claim by any Relevant Employee arising out of any personal injury or injury at work of whatever nature prior to the termination of this Agreement; and
- 3.11.8 any other obligations of or arising under this Agreement,

whether any such claim arises on or after the Service Transfer Date if it has its origins before such date.
- 3.12 The Parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer as a consequence of a Subsequent Transfer will be fulfilled.
- 3.13 The Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to paragraphs 3.3 to 3.12, to the extent necessary to ensure that any Replacement Provider shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Provider by the Provider or the Council in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.
- 3.14 Notwithstanding paragraph 3.13, it is expressly agreed that the Parties may by agreement rescind or vary any terms of this Agreement without the consent of any other person who has the right to enforce its terms or the

term in question despite that such rescission or variation may extinguish or alter that person's entitlement under that right.

- 3.15 The Council shall not be liable to the Provider (or any Sub-Contractor) in respect of any Redundancy Costs from and including the Operational Services Commencement Date to and including the expiry or termination of this Agreement (in whole or in part).

Schedule 7 – Clarifications

REDACTED CLARIFICATION LOG

REDACTED TUPE CLARIFICATION LOG

Schedule 8 – Provider’s Tender

REDACTED

Schedule 9 – (Pensions)

1 Interpretation

1.1 The definitions and rules of interpretation in this paragraph 1 apply in this Schedule 9:

2013 Regulations	mean the Local Government Pension Scheme Regulations 2013 as amended or replaced from time to time;
Academy	has the meaning giving under section 579 (general interpretation) of the Education Act 1996;
Academy Trust	means a proprietor of an Academy within the meaning of section 579 (general interpretation) of the Education Act 1996 who has entered into Academy arrangements within the meaning of section 1 (academy arrangements) of the Academies Act 2010;
Actuary	means an actuary appointed by the Council with all costs of such actuary to be met by the Provider;
Administering Authority	means Hampshire County Council, acting in its capacity as the administering authority of the Fund for the purposes of the LGPS Regulations;
Admission Agreement	means the semi-open admission agreement between the Council, the Provider and the Administering Authority substantially in the form appended to this Schedule to be entered into to allow the Provider to participate in the Fund in accordance with the 2013 Regulations;
Admission Body	has the meaning given to it under the 2013 Regulations;
Beckmann Rights	mean contractual rights relating to occupational pension schemes capable of transferring under TUPE pursuant to caselaw including: Beckmann v Dynamco Whicheloe Macfarlane Ltd, Martin v South Bank University and Procter & Gamble Company v Svenska Cellulosa Aktiebolaget SCA;
Best Value Direction	means the Best Value Authorities Staff Transfers (Pensions) Direction 2007 issued by the Department for Communities and Local Government and any replacement policy to the same or similar effect;
Cessation Date	means any date on which the Provider ceases to be an Admission Body participating in the Fund in respect of the

	Services other than because it ceases to employ at least one Eligible Employee;
Deed of Adherence	means a deed of adherence to the Admission Agreement (or a Sub-Contractor Admission Agreement) to be entered into between the Council, the Provider (or the relevant Sub-Contractor), the Administering Authority and an Academy Trust;
Eligible Employees	means the Transferring Employees and Third Party Employees who are active members of the Fund or who are eligible to join the Fund as an active member immediately before their employments transfer to the Provider pursuant to a Relevant Transfer (including where such employments transfer from a Sub-Contractor);
Fund	means the Hampshire Pension Fund within the LGPS;
LGPS	means the Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under Sections 7 and 12 of the Superannuation Act 1972 as from time to time amended;
LGPS Regulations	means the regulations made under the Superannuation Act 1972, or such other statute as should replace or supplement the Superannuation Act 1972, under which the LGPS is governed and administered;
Losses	means all costs, claims, demands, liabilities, expenses (including professional advisor costs and fees), damages and losses whatsoever;
Mirror Terms	means a legally enforceable contract on mirror terms to the terms set out in this Schedule 9 (Pensions) as described at paragraph 14.2 of this Schedule 9;
Relevant Transfer	means (1) a relevant transfer of the Services (or any part of the Services) for the purposes of TUPE and/or (2) where facilities, assets or services necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of the Services, are transferred to or otherwise provided or undertaken by a third party or, having been so transferred, provided or undertaken, the taking back of such provision or undertaking by the Provider (or a Sub-Contractor) (whether or not such transfer, provision, undertaking or taking back constitutes a relevant transfer for the purposes of TUPE);

Relevant Transfer Date	in relation to a Relevant Transfer, the date upon which the Relevant Transfer takes place and/or commences;
Sub-Contractor	has the same meaning given to the term Sub-Contractor in clause 1 (Interpretation) of this Agreement;
Sub-Contractor Admission Agreement	means the semi-open admission agreement between the Council, the relevant Sub-Contractor and the Administering Authority substantially in the form appended to this Schedule to be entered into to allow the relevant Sub-Contractor to participate in the Fund in accordance with the 2013 Regulations;
Sub-Contractor Eligible Employees	means the Transferring Employees and Third Party Employees who are active members of the Fund or who are eligible to join the Fund as an active member immediately before their employments transfer to a Sub-Contractor pursuant to a Relevant Transfer (including where such employments transfer from the Provider);
Transfer Value	means, in circumstances where an Eligible Employee is subject to a Relevant Transfer and his employment has transferred to a Sub-Contractor, Replacement Provider or the Council from the Provider and the Eligible Employee has elected to transfer his pension benefits from the Trust Scheme(s) to the pension scheme of his new employer, such amount as is sufficient to fund in full the liabilities (whether immediate, prospective or contingent) being transferred from the Trust Scheme(s) in respect of the Eligible Employee;
Trust Scheme	means the retirement benefits scheme or schemes (or other arrangement) established or to be established, at the cost of the Provider, for the purpose of complying with the obligations in paragraph 8 of this Schedule 9 (Pensions) or the Mirror Terms;

1.2 All other words, terms and expressions used in this Schedule 9 (Pensions) shall have the meanings given to them in clause 1 (Interpretation) of this Agreement or paragraph 1.1 (Interpretation) of Schedule 6 (TUPE) to this Agreement.

1.3 Without prejudice to the general obligation to procure the Mirror Terms, and any other specific provision in this Schedule 9 that requires the Provider to procure other persons to undertake actions or refrain from actions, where a provision in this Schedule imposes an obligation on the Provider to provide

an indemnity, undertaking or warranty, the Provider shall procure that each of its Sub-Contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Council.

2 PROVIDER TO BE ADMITTED TO THE LGPS

- 2.1 The Provider shall, with effect on and from the Operational Services Commencement Date, enter into the Admission Agreement in respect of, and for the benefit of, the Eligible Employees and shall participate as an Admission Body of the Fund until the earlier of: (1) the date of a Subsequent Transfer under which all Services transfer from the Provider to the Council or a Replacement Provider; and (2) the Provider ceasing to employ at least one Eligible Employee (unless the Provider subsequently employs an Eligible Employee, in which case the obligations in this paragraph 2 will reapply).
- 2.2 In relation to any Sub-Contractor Eligible Employees from time to time, the Provider shall procure that the relevant Sub-Contractor enters into a Sub-Contractor Admission Agreement in respect of, and for the benefit of, the relevant Sub-Contractor Eligible Employees and participates as an Admission Body of the Fund until ceasing to employ at least one Sub-Contractor Eligible Employee (unless the Sub-Contractor subsequently employs a Sub-Contractor Eligible Employee, in which case the obligations in this paragraph 2 will reapply).
- 2.3 The Provider shall comply with the terms of the Admission Agreement and the LGPS Regulations (and procure that any relevant Sub-Contractor complies with the terms of its Sub-Contractor Admission Agreement and the LGPS Regulations) throughout the term of this Agreement.
- 2.4 Where Services are being extended to an Academy Trust, the Provider shall (and/or where relevant procure that its Sub-Contractor(s) shall), at the request of the Council, and with effect on and from the Relevant Transfer Date relating to that extension of Services, enter into a Deed of Adherence in respect of, and for the benefit of, the relevant Eligible Employees (and/or any relevant Sub-Contractor Eligible Employees). For the avoidance of doubt, in accordance with this Agreement, as Services may be extended to multiple Academy Trusts, the Provider (and/or its Sub-Contractor(s)) may be required to enter into multiple Deeds of Adherence.

3 COUNCIL TO ENTER INTO ADMISSION AGREEMENT

- 3.1 The Council will as soon as reasonably practicable execute the Admission Agreement (and/or any Sub-Contractor Admission Agreements) and will use reasonable endeavours to ensure that the Administering Authority executes the Admission Agreement (and/or any Sub-Contractor Admission Agreements).
- 3.2 Where Services are being extended to an Academy Trust, the Council will as soon as reasonably practicable execute a Deed of Adherence and will use reasonable endeavours to ensure that the Administering Authority and the relevant Academy Trust executes the Deed of Adherence. For the

avoidance of doubt, in accordance with this Agreement, as Services may be extended to multiple Academy Trusts, multiple Deeds of Adherence may be required.

4 ENTITLEMENT TO MEMBERSHIP OF THE LGPS

- 4.1 The Provider shall take such steps as are necessary so that the Eligible Employees and any Sub-Contractor Eligible Employees shall remain eligible for membership of the LGPS following the Relevant Transfer Date that relates to each Eligible Employee or Sub-Contractor Eligible Employee, subject to the terms of the Admission Agreement (and/or any Sub-Contractor Admission Agreement) and the LGPS Regulations, and shall, as soon as reasonably possible after the Relevant Transfer Date that relates to the Eligible Employee or the Sub-Contractor Eligible Employee, give formal notice to that Eligible Employee, and procure that formal notice is given to that Sub-Contractor Eligible Employee, of:
- 4.1.1 their eligibility for membership of the LGPS or, in the case of Eligible Employees or Sub-Contractor Eligible Employees who are already members of the LGPS, confirmation of the same; and
- 4.1.2 the date when or, the conditions under which, such eligibility will cease.

5 INDEMNITY OR BOND

- 5.1 The Provider and the Council agree that, pursuant to paragraph 8 of Part 3 of Schedule 2 of the 2013 Regulations, as at the Operational Services Commencement Date it is not desirable for the Provider to enter into an indemnity or bond, and instead the Council agrees to provide a guarantee in a form satisfactory to the Administering Authority.
- 5.2 Notwithstanding paragraph 5.1 and without prejudice to the generality of the requirements of this Schedule 9 (Pensions), the Provider shall procure that, if required at any time by the Council or the Administering Authority, it shall obtain and maintain any indemnity or bond required in accordance with the terms of the Admission Agreement and the 2013 Regulations.

6 FUNDING

- 6.1 The Council shall use reasonable endeavours to procure that the Provider's and any Sub-Contractor's admission(s) to the Fund shall be on the Administering Authority's "subsumption basis". The parties understand that this subsumption basis shall mean that the pension liabilities within the Fund relating to the employments of the Eligible Employees that transfer to the Provider or the Sub-Contractor Eligible Employees that transfer to a Sub-Contractor pursuant to a Relevant Transfer shall, on termination of the Admission Agreement or relevant Sub-Contractor Admission Agreement (or, where liabilities are assumed by an Academy Trust, the earlier date on which Services cease to be provided in respect of that Academy Trust), be contractually assumed by the Council or relevant Academy Trust (to the extent that the Council or Academy Trust does not automatically assume liability under the 2013 Regulations) unless, or until such time as, liability

passes to another person by operation of the 2013 Regulations. The parties further understand that, although under a subsumption basis an exit payment (within the meaning of the 2013 Regulations) is unlikely to be payable by the Provider or Sub-Contractor (because of the assumption of liability described above), to the extent that any exit payment is payable by the Provider and/or a Sub-Contractor under the Admission Agreement and/or the relevant Sub-Contractor Admission Agreement and/or the 2013 Regulations (including, but not limited, to where the Administering Authority structures any unpaid contributions or pension strain costs as an exit payment) this shall not fall under the assumption of liability described above.

- 6.2 Notwithstanding the subsumption basis as described in paragraph 6.1, the Provider shall accept sole responsibility for, and the Council shall not fund, nor be liable for, and the Provider shall indemnify the Council in full on demand and keep the Council indemnified and held harmless against the full cost (including any associated professional fees or costs of the Administering Authority incurred or recharged to the Council) of, the following liabilities within the Fund:
- 6.2.1 pension strain costs arising as a result of any Eligible Employee's or Sub-Contractor Eligible Employee's immediate retirement by reason of redundancy or business efficiency under regulations 30(7) of the 2013 Regulations or otherwise;
 - 6.2.2 liabilities (including but not limited to pension strain costs) arising from the exercise by the Provider or any Sub-Contractor of any discretion conferred upon the Provider or any Sub-Contractor by the LGPS Regulations or otherwise, including but not limited to any award of additional pension for any Eligible Employee or Sub-Contractor Eligible Employee granted under regulation 31 of the 2013 Regulations or any exercise of its discretion under regulations 16, 30 or 31 of the 2013 Regulations (including, for the avoidance of doubt, where the Provider is obliged to exercise such discretion pursuant to paragraph 11 below);
 - 6.2.3 to the extent that they are charged to the Council (or the Council's pool within the Fund) individually and not funded by all employers of the Fund, liabilities (including but not limited to pension strain costs) arising as a result of early retirements due to ill-health, under regulations 35 or 38 of the 2013 Regulations or otherwise (provided that, the Council will assume the liability where it arises in respect of a Transferring Employee who retires as a result of a health condition of which the Council was aware immediately prior to the Relevant Transfer Date relating to that Transferring Employee);
 - 6.2.4 liabilities arising from the Provider or any Sub-Contractor awarding any Eligible Employee or Sub-Contractor Eligible Employee an annual pay award which exceeds the pay awards agreed by the Council under a collective bargaining process for any of its employees and/or incremental pay increases which exceed the incremental pay increases (calculated on the same or an equivalent basis, and awarded in the same or equivalent

circumstances, to those awarded by the Council) that the Eligible Employee or Sub-Contractor Eligible Employee would have been entitled to had they remained employed (or been employed) by the Council; and

6.2.5 liabilities arising as a result of promotion except to the extent that the promotion is to a position and grade which existed within the Council's staffing structure for the Services prior to the Operational Services Commencement Date.

6.3 For the avoidance of doubt, the Provider shall, with effect from and including the Operational Services Commencement Date, be responsible for paying all employer and employee contributions due to the Administering Authority and/or the Fund in respect of the Eligible Employees, and any other sum due to the Fund in respect of the Eligible Employees in accordance with the LGPS Regulations and the Admission Agreement, and shall procure that any Sub-Contractor makes all required payments in respect of its Sub-Contractor Eligible Employees in accordance with the LGPS Regulations and its Sub-Contractor Admission Agreement.

7 EFFECT OF DEFAULT

7.1 The Provider shall indemnify and keep indemnified the Council against all Losses incurred or suffered by the Council in connection with or as a result of any breach by the Provider of this Schedule 9 (Pensions), the Admission Agreement and/or the LGPS Regulations and/or any Sub-Contractor's breach of the Mirror Terms applicable to it, its Sub-Contractor Admission Agreement and/or the LGPS Regulations, including but without limitation:

7.1.1 any failure of the Provider or any Sub-Contractor to pay any exit payment (within the meaning of the 2013 Regulations) payable by the Provider under the Admission Agreement and/or the 2013 Regulations or by any Sub-Contractor under the relevant Sub-Contractor Admission Agreement and/or the 2013 Regulations, or any costs of the Administering Authority associated with the termination of the Admission Agreement or any Sub-Contractor Admission Agreement or any other outstanding contributions owed by the Provider or any Sub-Contractor to the Administering Authority and/or the Fund; and

7.1.2 any resultant claim by the Administering Authority and/or Fund under any guarantee given under the Admission Agreement, any Sub-Contractor Admission Agreement, or otherwise, and/or any apportionment of liability to the Council under the 2013 Regulations.

7.2 Where the Provider is, or is likely to be (in the reasonable opinion of the Provider), in breach of the requirements set out in paragraph 2 (above) including if it fails to pay any amount which is due under this Agreement, the Admission Agreement or the LGPS Regulations or takes any action which may cause additional contributions or additional liability to be due to the Fund or of any matter which may affect or is likely to affect its participation in the Fund, and/or any Sub-Contractor is so in breach of the

Mirror Terms applicable to it, the Sub-Contractor Admission Agreement or the LGPS Regulations, the Provider shall immediately notify the Council and the Administering Authority and take, and procure that any Sub-Contractor takes, such steps as the Council may direct in respect of the Eligible Employees or Sub-Contractor Eligible Employees so as to give effect to (or maintain the effect of) the Best Value Direction (or any replacement pension protection).

8 PROVIDER CEASES TO BE AN ADMISSION BODY

- 8.1 If, prior to a Subsequent Transfer under which all Services transfer from the Provider to the Council or a Replacement Provider, having complied with the above paragraphs of this Schedule 9 (Pensions), the Provider ceases for any reason to be an Admission Body other than because it no longer employs any Eligible Employees, then the provisions of the paragraph 8 shall apply.

Trust Scheme

- 8.2 The Provider will, as soon as practicable after the Cessation Date nominate to the Council in writing the scheme or schemes (or other arrangement) which it proposes will be the Trust Scheme for the purposes of this Agreement. The Trust Scheme must be:
- 8.2.1 established prior to or as soon as practical after the Cessation Date and maintained throughout the period that the Provider employs any Eligible Employees (or, where required, longer in order to provide deferred and pension benefits to Eligible Employees);
 - 8.2.2 reasonably acceptable to the Council (such acceptance not to be unreasonably withheld or delayed);
 - 8.2.3 a registered pension scheme for the purposes of the Finance Act 2004; and
 - 8.2.4 certified by the Actuary as providing benefits the same as, broadly comparable to, or better than those provided by the Fund.
- 8.3 The Provider undertakes to the Council to provide that the Eligible Employees as soon as practicable after the Cessation Date shall be offered membership of the Trust Scheme with effect from and including the Cessation Date.
- 8.4 The Trust Scheme shall provide benefits in respect of the Eligible Employees' periods of service with the Provider on and after the Cessation Date which the Actuary shall certify to be the same as, broadly comparable to, or better than the benefits which the Eligible Employees would have been entitled to under the LGPS had they continued in membership of the Fund.
- 8.5 The Provider undertakes to the Council to procure (at its own cost) that:

- 8.5.1 where the Trust Scheme has not been established at the Cessation Date the Eligible Employees shall be provided with benefits in respect of death-in-service which are no less favourable than the death-in-service benefits provided by the LGPS immediately before the Cessation Date. Such benefits will continue to be provided until death-in-service benefits are provided by the Trust Scheme in accordance with paragraph 8.4; and
- 8.5.2 if any Trust Scheme established in accordance to this paragraph 8 is terminated or ceases to comply with the requirements of this paragraph 8, the Provider shall procure a replacement Trust Scheme for any remaining Eligible Employees. The replacement Trust Scheme must comply with paragraph 8 as if it were the original Trust Scheme or be the Fund. Where this sub-paragraph applies, references in this paragraph 8 to “Cessation Date” are to be construed as the date on which the previous Trust Scheme is terminated or ceases to comply with this paragraph 8;
- 8.5.3 within two (2) Months of the Cessation Date, the Provider will offer to each Eligible Employee who agrees to become a member of the Trust Scheme the opportunity to transfer the benefits he had accrued under the Fund into the Trust Scheme (and/or, in the case of any replacement Trust Scheme, any benefits accrued in, or transferred to, any previous Trust Scheme(s)). For each Eligible Employee who accepts such an offer in writing within two (2) Months of receipt of the offer, the Provider will procure that the Trust Scheme (or the replacement Trust Scheme) will provide benefits which, in the opinion of the Actuary, in respect of past service are equal in value to and no less favourable than the benefits to which the Eligible Employee was entitled under the Fund (or, in the case of any replacement Trust Scheme, to which the Eligible Employee would have been entitled to had he remained an active member of the Fund rather than accrued benefits under the previous Trust Scheme(s)); and
- 8.5.4 on and from the Cessation Date, in relation to any Eligible Employees who ceased to be active members of the Fund due to the Provider ceasing to be an Admission Body and who take their retirement benefits from the Fund, notwithstanding (but without prejudice) to any Beckmann Rights the Eligible Employees may have, the Provider shall procure (and fully fund) any higher level of benefits that those Eligible Employees would have been entitled to in respect of their accrual in the Fund until the Cessation Date had they retired from active membership of the Fund rather than as a deferred member, including (but not limited to) the Provider agreeing to waive in whole any reduction pursuant to Regulation 30(8) of the 2013 Regulations.
- 8.6 The Provider undertakes to the Council to procure (including funding any shortfall) that where an Eligible Employee has been provided with benefits in the Trust Scheme (including any replacement Trust Schemes and where applicable, any transfer-in of benefits pursuant to paragraph 8.5.3) any Transfer Value shall be sufficient to provide benefits which, in the opinion of the Actuary, are equal in value to and no less favourable than the benefits to which the Eligible Employee was entitled under the Trust Scheme(s).

9 UNDERTAKING FROM THE PROVIDER

9.1 The Provider:

- 9.1.1 will not, without the consent in writing of the Council (which will only be given subject to the payment by the Provider of such reasonable costs as the Council and/or the Administering Authority may require) consent to, instigate, encourage or assist any event which could impose on the Fund or on the Council a cost in respect of any Eligible Employee or Sub-Contractor Eligible Employee greater than the cost which would have been payable in respect of that Eligible Employee or Sub-Contractor Eligible Employee had that consent, instigation, encouragement or assistance not been given;
- 9.1.2 will procure that, until the Operational Services Commencement Date, no announcements (whether in writing or not) will be made to the prospective Eligible Employees and any prospective Sub-Contractor Eligible Employees concerning the matters stated in this Schedule 9 (Pensions) without the consent in writing of the Council (such consent not to be unreasonably withheld or delayed) and where applicable the Administering Authority;
- 9.1.3 shall not take or omit to take any action which would materially affect in a detrimental manner the benefits under the Fund or a Trust Scheme of any Eligible Employees or Sub-Contractor Eligible Employees; and
- 9.1.4 will procure that any Eligible Employee or any Sub-Contractor Eligible Employee who after the Operational Services Commencement Date ceases to be eligible for membership of the Fund is offered membership of a Trust Scheme established in the manner provided in paragraph 8.2 (Trust Scheme) or the mirror provision of the relevant Mirror Terms as soon as reasonably practicable after ceasing to be so eligible. For the avoidance of doubt, this sub-paragraph shall not apply in relation to any Eligible Employee or Sub-Contractor Eligible Employee who voluntarily ceases to be an active member of the Fund.

10 UNDERTAKING FROM THE COUNCIL

- 10.1 The Council will procure that so far as legally permissible and subject to any restrictions under the provisions of the Data Protection Legislation, all information in its possession and control which the Provider or its professional advisers may reasonably request regarding the Provider's or any Sub-Contractor's admission to the Fund or in order to verify any transfer value or concerning any other matters raised in paragraph 8.2 (Trust Scheme) and paragraph 9 (Undertaking from the Provider) (or the corresponding provisions of any Mirror Terms) will be supplied to them as expeditiously as possible.

11 DISCRETIONARY BENEFITS

- 11.1 Except for where otherwise provided for in this Schedule 9 (Pensions), where the Provider is an Admission Body, the Provider shall award benefits

(where permitted) to the Eligible Employees under the LGPS in circumstances where the Eligible Employees would have received such benefits had they still been employed by the Council.

- 11.2 Where the award of benefits in paragraph 11.1 is not permitted under the LGPS Regulations as a result of the transfer of the Eligible Employees' employments to the Provider, or the Provider is not an Admission Body, the Provider shall award benefits to the Eligible Employees which are identical to the benefits the Eligible Employees would have received under the LGPS Regulations in circumstances where the Eligible Employees would have received such benefits had they still been employed by the Council.
- 11.3 Under paragraphs 11.1 and 11.2, where such benefits are of a discretionary nature, except as otherwise provided in this Schedule 9, they shall be awarded on the basis of the Council's written policy (published pursuant to Regulation 60 of the 2013 Regulations in respect of discretionary benefits under the 2013 Regulations) in relation to such benefits from time to time (which the Council shall provide upon request). Where the payment of such benefits is not, for whatever reason, possible, the Provider shall compensate the affected Eligible Employees in a manner which is broadly comparable or equivalent in cash terms.

12 CLAIMS FROM ELIGIBLE EMPLOYEES OR TRADE UNIONS

- 12.1 The Provider hereby indemnifies the Council from and against all Losses suffered or incurred by it which arise from claims by Eligible Employees, Sub-Contractor Eligible Employees or by any trade unions, elected employee representatives or staff associations in respect of all or any such Eligible Employees and Sub-Contractor Eligible Employees, which Losses relate to pension rights accrued in respect of periods of employment with the Provider or a Sub-Contractor but excluding any Losses suffered or incurred to the extent that they arise as a direct result of any acts or omissions of the Council.

13 LIABILITY FOR COSTS

- 13.1 The costs of the Administering Authority necessarily and reasonably incurred in connection with the Admission Agreement, any Sub-Contractor Admission Agreement and/or any Deeds of Adherence shall be borne by the Council.
- 13.2 The costs of the Administering Authority necessarily and reasonably incurred in connection with any transfer of accrued benefits from the Fund will be borne by the Provider.

14 TRANSFER TO ANOTHER EMPLOYER

- 14.1 In the event of a Relevant Transfer from the Provider (including but not limited to a Subsequent Transfer), the Provider will consult with and inform affected Eligible Employees of the pension provisions that will apply to the transfer of their employments from the Provider to the new employer.

- 14.2 In the event of a Relevant Transfer to a Sub-Contractor, the Provider shall procure that the Sub-Contractor enters into legally enforceable pension terms with the Provider which substantively mirror, to the prior satisfaction of the Council, the provisions of this Schedule 9 (Pensions) but as though references in Schedule 9 to the Provider were references to the relevant Sub-Contractor, references to the Eligible Employees were references to the Sub-Contractor Eligible Employees, references to a Sub-Contractor were references to a sub-contractor of the Sub-Contractor (with references to the Sub-Contractor Admission Agreement being construed accordingly) and references to the Admission Agreement were references to a Sub-Contractor Admission Agreement (for the avoidance of doubt, mirror terms shall include this paragraph such that the Sub-Contractor will itself be obliged to put in place Mirror Terms on any onward Relevant Transfer from it).
- 14.3 The Provider shall indemnify and keep indemnified the Council against all Losses incurred or arising from any breach of this Schedule 9 (Pensions) and/or of the relevant Mirror Terms by any Sub-Contractor.
- 14.4 If the Provider fails to put in place a legally enforceable agreement between the Provider and the relevant Sub-Contractor in accordance with paragraph 14.2 before the proposed date of the Relevant Transfer, the Provider shall take all steps to postpone the transfer of undertaking or service provision change that would give rise to the Relevant Transfer until such agreement is in place.

15 INFORMATION

- 15.1 The Provider shall and shall procure that its Sub-Contractor shall:
- 15.1.1 maintain such documents and information as will be reasonably required to manage the pension aspects of any onward transfer, or transfer back to the Council, of the employment of any employee of the Provider or any Sub-Contractor;
 - 15.1.2 promptly provide to the Council such documents and information which the Council may reasonably request in advance of any onward transfer, or transfer back to the Council, of the employment of any employee of the Provider or any Sub-Contractor; and
 - 15.1.3 fully co-operate (and use best endeavours to procure that the trustees or manager of any Trust Scheme shall fully co-operate) with the reasonable requests of the Council or the Administering Authority relating to any administrative tasks necessary to deal with the pension rights of and pension aspects of any onward transfer, or transfer back to the Council, of the employments of any Eligible Employees or Sub-Contractor Eligible Employees.

16 RIGHT OF ENFORCEMENT BY ELIGIBLE EMPLOYEES

- 16.1 The provisions of this Schedule 9 (Pensions) shall be directly enforceable by any Eligible Employee or Sub-Contractor Eligible Employee against the

Provider or any Sub-Contractor and the parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to the extent necessary to ensure that any Eligible Employee and/or Sub-Contractor Eligible Employee shall have the right to enforce any obligation owed to such employee by the Provider or Sub-Contractor under this Schedule 9 in his own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

ADMISSION AGREEMENT SEMI-OPEN

Hampshire County Council (in its capacity as the administering authority of
the Hampshire Pension Fund) (1)

Hampshire County Council (in its capacity as a Scheme employer within the
Hampshire Pension Fund) (2)

and

[Admission Body] (3)

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THIS AGREEMENT is made on
2025

PARTIES

- (1) **HAMPSHIRE COUNTY COUNCIL** (in its capacity as the administering authority of the Pension Fund) whose principal office is at The Castle, Winchester SO23 8UB (the "**Administering Authority**");
- (2) **HAMPSHIRE COUNTY COUNCIL** (in its capacity as a Scheme employer within the Pension Fund) whose principal office is at The Castle, Winchester SO23 8UB (the "**Scheme Employer**" and the "**Guarantor**"); and
- (3) **[Admission Body]** (company no.) whose registered office is at [insert address] (the "**Admission Body**").

BACKGROUND

- (A) The Administering Authority is an administering authority within the meaning of the Regulations and administers and maintains the Pension Fund.
- (B) The Scheme Employer is a scheme employer within the meaning of the Regulations, including, where relevant, the deemed Scheme Employer for the purposes of the regulations and this Agreement pursuant to Regulation 3(2) of the LGPS regulations and Part 4, Schedule 2 to the LGPS Regulations.
- (C) With effect from **[insert service commencement date]** the Admission Body **[provides][will provide]** services or assets in connection with the exercise of a function of the Scheme Employer (as the maintaining authority of the Maintained Schools) pursuant to the Contract.
- (D) As at the date of this Agreement, the Scheme Employer and the Admission Body have entered into the Contract. As a result of this, the employments of the Initial Eligible Employees **[transferred][will transfer]** to the Admission Body on and from the Service Commencement Date.
- (E) The Administering Authority, the Scheme Employer and the Admission Body have agreed to enter into this Agreement to enable the Initial Eligible Employees to continue to be members of the Scheme and to participate in the Pension Fund and/or to continue to be eligible for membership subject to the terms of this Agreement.

-
- (F) Furthermore, the Scheme Employer and Admission Body have confirmed that, pursuant to the Contract, related and/or future transfers of employments of staff to the Admission Body ("**Future Transferred Staff**") may from time to time occur as a result of: (1) further services being provided under the Contract by the Admission Body to the Scheme Employer (in relation to Maintained Schools); and/or (2) services being provided under the Contract by the Admission Body to Academy Trusts in relation to one or more academy school located in the Hampshire Pension Fund area and owned by those Academy Trusts.
- (G) The parties wish for this Agreement to be one that enables, subject to the agreement of the Administering Authority and the Scheme Employer, those Future Transferred Staff who, in relation to their employments that transfer, are active members of the Pension Fund or eligible for membership immediately prior to the date their employments transfer to the Admission body, to be designated by the Admission Body as eligible for continued active membership of the Scheme and participate in the Pension Fund and/or to continue to be eligible for membership subject to the terms of this Agreement.
- (H) Furthermore, where under the Contract services are provided (or to be provided) to an Academy Trust (in relation to one or more of its academy schools located in the Hampshire Pension Fund area), the Admission Body wishes to designate relevant Future Transferred Staff (as described in recital (G)), and the Administering Authority and the Scheme Employer decide to agree to that, the parties acknowledge that the relevant Academy Trust would, in that circumstance, be the relevant Scheme employer for the purposes of Paragraph 1(d), Part 3, Schedule 2 to the LGPS Regulations. As such, the parties further acknowledge that the relevant Academy Trust must, pursuant to Paragraph 3, Part 3, Schedule 2 to the LGPS Regulations, be party to any admission agreement in relation to those relevant Future Transferred Staff. To provide for this under this Agreement, the parties wish to agree that, when the previously described circumstances arise, they will enter into a Deed of Adherence (and the Scheme Employer will use reasonable endeavours to procure that the relevant Academy Trust will enter into that Deed of Adherence), so that this Agreement gives effect to the designation in accordance with the LGPS Regulations.
- (I) On termination of this Agreement, the Scheme Employer wishes to agree that it will assume the liabilities of the Pension Fund in respect of the Eligible Employees in accordance with Clause 8.7 of this Agreement.
- (J) The Guarantor has agreed to guarantee the liabilities of the Admission Body on the terms provided for in this Agreement.
- (I) The terms and conditions of such an admission have been agreed between the parties to this Agreement as follows:-

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1. In this Agreement (including in the Background section above), the following words shall have the meaning given to them below:

“Academy Trust” means any proprietor of an Academy within the meaning of section 579 of the Education Act 1996 who has entered into Academy arrangements within the meaning of section 1 (academy arrangements) of the Academies Act 2010;

“Act” means the Public Service Pensions Act 2013;

“Business Day” means any day other than a Saturday or a Sunday or a public or Bank Holiday in England;

“Contract” means the contract dated [*insert date of “Contract”*] between the Scheme Employer and the Admission Body;

“Deed of Adherence” means a deed of adherence in a form materially the same as the form of deed appended at Appendix 3;

“Eligible Employees” means the Initial Eligible Employees and any Future Eligible Employees;

“Future Eligible Employees” means any employees whose employments transfer to the Admission Body as a result of the Contract, and who, in relation to those employments, are either active members of the Scheme and Pension Fund or eligible to join immediately before the date of transfer of their respective employments, and who, subject to the agreement of the Administering Authority and Scheme Employer, are designated and remain designated under Clause 4.1A;

“Future Service Commencement Date” means the date or dates on which the Future Eligible Employees transfer to the Admission Body pursuant to the Contract;

“Initial Eligible Employees” means the employees listed in Appendix 1 whose employments transfer to the Admission Body as a result of the Contract, and who, in relation to those employments, are either active members of the

Scheme and Pension Fund or eligible to join immediately before the Service Commencement Date, and who are designated and remain designated under Clause 4.1;

"LGPS Regulations" mean the Local Government Pension Scheme Regulations 2013 (SI 2013/2356);

"Maintained School" means any school in relation to which the Scheme Employer is the maintaining authority (including, but not limited to: community schools, voluntary aided schools, voluntary controlled schools and foundation schools);

"Pension Fund" means the Hampshire Pension Fund within the Scheme;

"Regulations" mean the LGPS Regulations and the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (SI2014/525);

"Scheme" means the Local Government Pension Scheme; and

"Service Commencement Date" means the date on which the Initial Eligible Employees transfer to the Admission Body, pursuant to the Contract.

1.2. Save as aforesaid the words and expressions used in this Agreement shall have the same respective meanings as in the Regulations unless the context otherwise requires.

1.3. In this Agreement where the context so admits:-

(a) words denoting the singular shall include the plural and vice versa, words denoting the masculine gender shall include the feminine gender and vice versa and words denoting persons shall include corporations unincorporated associations and partnerships;

(b) reference to any legislative provisions shall be deemed to include reference to any such provisions as from time to time amended varied replaced extended or re-enacted and/or subordinate legislation under such provisions unless the context otherwise requires;

(c) reference to Clauses or Schedules or Appendices shall be deemed to be references to a Clause or a Schedule or an Appendix to this Agreement and references to a sub-Clause shall be deemed to be a reference to a Sub-Clause of the Clause in which the reference appears;

(d) references to a party or the parties shall mean the parties to this Agreement as listed in the party clause at the beginning of this Agreement and shall not include any Academy Trust(s) who adhere to this Agreement pursuant to Clause 6 except in relation to Clauses 3, 18 and 19 where references to party or parties shall include such Academy Trust(s); and

(e) headings are included for ease of reference only and shall not affect this Agreement or its interpretation.

2. COMMENCEMENT DATE

2.1. This Agreement shall have effect from and including the Service Commencement Date.

3. REGULATIONS

3.1. The Regulations shall apply for determining the rights and obligations of and the action which is to be taken by each party to this Agreement and for the transmission of information between them and each party hereby undertakes with the other to take such action as soon as practicable.

3.2. The Admission Body undertakes to:

(a) adopt the practices and procedures relating to the operation of the Scheme and the Pension Fund set out in the Regulations, the Local Government Pension Scheme (Transitional Provisions) Regulations 2008 (SI2008/238) and in any employer's guide published by the Administering Authority and provided to the Admission Body; and

(b) to promptly provide (or procure to be provided) all information that the Administering Authority reasonably requests in order to administer the Scheme and maintain the Pension Fund in accordance with the Regulations and to comply with any other legal or regulatory requirements applicable to the

Scheme including The Occupational and Personal Pension Schemes (Disclosure of Information) Regulations 2013 (SI2013/2734).

3.3. The Regulations will apply to employment with the Admission Body in which an Eligible Employee is an active member of the Scheme in the same way as if the Admission Body were a Scheme employer within the meaning of the Regulations except where the Regulations provide otherwise.

4. ADMISSION

4.1. For the purposes of Regulation 3 of the LGPS Regulations, the Admission Body (being the employer in respect of the persons listed in Appendix 1 with effect on and from the Service Commencement Date) hereby designates:

5. those employees listed in Appendix 1 who were active members of the Scheme immediately before the Service Commencement Date as eligible to remain active members of the Scheme with effect on and from the Service Commencement Date; and
6. those employees listed in Appendix 1 who are not active members of the Scheme but were eligible to join immediately before the Service Commencement Date, as eligible to join the Scheme on and from the first payment period following receipt of the necessary application in accordance with the Regulations,

in each case **PROVIDED THAT:**

- (i) they are employed, and continue to be employed, by the Admission Body in connection with the Contract;
- (ii) the employee is not a member of another occupational pension scheme (within the meaning of section 1 of the Pension Schemes Act 1993) in relation to that employment; and
- (iii) the employee otherwise satisfies the requirements of the Regulations relating to eligibility for and membership of the Scheme.

For the purposes of this Agreement, the words "employed by the Admission Body in connection with the Contract" shall mean that an employee spends at

least 50% of his time when employed by the Admission Body carrying out duties relevant to the Contract.

4.1A For the purposes of Regulation 3 of the LGPS Regulations, the Admission Body (being the employer in respect of the relevant persons with effect on and from the relevant Future Service Commencement Date), subject to the same provisos in Clause 4.1, hereby designates:

(a) those Future Eligible Employees notified to the Administering Authority and the Scheme Employer, and in relation to whom the Administering Authority and the Scheme Employer agree can be designated under this Agreement, who are active members of the Scheme immediately before the relevant Future Service Commencement Date as eligible to remain active members of the Scheme with effect on and from the relevant Future Service Commencement Date; and

(b) those Future Eligible Employees notified to the Administering Authority and the Scheme Employer, and in relation to whom the Administering Authority and the Scheme Employer agree can be designated under this Agreement, who are not active members of the Scheme but were eligible to join immediately before the relevant Future Service Commencement Date, as eligible to join the Scheme on and from the first payment period following receipt of the necessary application in accordance with the Regulations.

4.2 The Administering Authority shall as from

(a) the Service Commencement Date for the Initial Eligible Employees,

(b) the relevant Future Service Commencement Date for the Future Eligible Employees, or

(c) such different date as is consistent with the Regulations in the case of an Eligible Employee opting to join,

permit the Eligible Employees to be members of the Scheme (or to continue to be members as appropriate) and to participate as active members of the Pension Fund and hereby, pursuant to section 25(5) of the Act, determines that

the Scheme shall relate to the Eligible Employees (on and from the relevant time(s) set out above).

5. PARTICIPATION

5.1 The Admission Body warrants and represents to the Administering Authority and to the Scheme Employer that, as at the Service Commencement Date, every Eligible Employee is employed in connection with the Contract for the purposes of this Agreement as defined in Clause 4.1.

5.2 The Admission Body undertakes that it will as soon as reasonably practicable notify the Administering Authority and the Scheme Employer in writing if any Eligible Employee ceases to be such in consequence of failing to satisfy that definition and that employee shall cease to be eligible to be an active member of the Scheme.

6. ADHERENCE OF ACADEMY TRUST

6.1 The parties may agree to allow one or more Academy Trust(s) to adhere to this Agreement, by way of entering into a Deed of Adherence with each such Academy Trust. Where the parties so agree, the Scheme Employer shall use reasonable endeavours to procure that the relevant Academy Trust enters into the Deed of Adherence.

6.2 Where a Deed of Adherence is entered into by the parties and the relevant Academy Trust, with effect from the commencement date set out in that deed:

(a) this Agreement shall be amended in the ways provided for in that Deed of Adherence and Clause 21 shall be invoked to give effect to the amendments; and

(b) the relevant Academy Trust shall become a party to this Agreement (but that status as a party shall always be subject to Clause 1.3(d)).

6.3 Where an Academy Trust adheres to this Agreement as set out in this Clause 6, the parties shall owe no obligations to the Academy Trust in respect of any period prior to the commencement date set out in the relevant Deed of Adherence.

6.4 The parties hereby acknowledge and agree that, where services under the Contract are provided to an Academy Trust in relation to its academy school or schools located in the Pension Fund area, the requirements of Paragraph 3, Part 3, Schedule 2 to the LGPS Regulations shall be met by way of the parties and the Academy Trust entering into a Deed of Adherence.

7. PAYMENTS

7.1 The Admission Body shall pay to the Administering Authority for credit to the Pension Fund such contributions and payments as are due under the Regulations.

7.2 The Admission Body shall pay to the Administering Authority for credit to the Pension Fund the employee and employer pension contributions on a monthly basis in arrears. The payment must be paid to the Administering Authority no later than the date specified by the Administering Authority or if earlier, specified in regulations made under the Pensions Act 1995.

7.3 The Admission Body shall pay to the Administering Authority for credit to the Pension Fund any revised contributions due under Sub-Clause 9.2(b) within 30 days of receipt of a written request from the Administering Authority.

7.4 Any financial penalty incurred by the Pension Fund arising from the failure of the Admission Body to comply with the terms of this Agreement shall be repaid to the Pension Fund by the Admission Body within 30 days of receiving a written request from the Administering Authority.

7.5 If any sum payable under the Regulations or this Agreement by the Admission Body to the Administering Authority or to the Pension Fund remains unpaid at the end of one month after the date on which it becomes due under this Agreement or the Regulations the Administering Authority shall require the Admission Body to pay interest calculated in accordance with the Regulations on the amount remaining unpaid.

7.6 The Scheme Employer may set off against any payments due to the Admission Body an amount equal to any overdue employer and employee contributions and any other payments (including interest) due from the Admission Body under

this Agreement or the Regulations. The Scheme Employer shall pay the value of any such set off amounts to the Pension Fund on the request of the Administering Authority.

7.8 If any sum payable under the Regulations or this Agreement by the Admission Body to the Administering Authority or to the Pension Fund has not been paid by the date on which it becomes due under this Agreement or the Regulations, the Administering Authority shall require the Scheme Employer to set off against any payments due to the Admission Body an amount equal to the sum due from the Admission Body under this Agreement or the Regulations (including any interest due) and the Scheme Employer shall pay the sum to the Administering Authority for credit to the Pension Fund by a date specified by the Administering Authority.

8. ADMISSION BODY'S UNDERTAKING

The Admission Body undertakes:-

- 8.1 to provide or procure to be provided such information relating to the Admission Body's participation in the Pension Fund and the Eligible Employees' participation in the Scheme as is reasonably required and requested in writing by the Administering Authority;
- 8.2 to formulate, publish and provide to the Administering Authority within three months of the Service Commencement Date a statement concerning the Admission Body's policy concerning the exercise of its functions under Regulations 16 (Additional Pension Contributions), 30 (Retirement Benefits) and 31 (Award of Additional Pension) of the LGPS Regulations and to keep such policy under review. Where, as a result of a review, the Admission Body determines to amend its policy, the Admission Body must send a copy of the amended statement to the Administering Authority within one month of the determination;
- 8.3 to notify the Administering Authority and the Scheme Employer of each occasion on which it exercises a discretion under the Regulations and the manner in which it exercises that discretion;

8.4 without prejudice to the requirements of the Regulations and any employer's guide published by the Administering Authority and provided to the Admission Body, to promptly notify the Administering Authority and the Scheme Employer in writing of any material change in the terms and conditions of employment of any of the Eligible Employees which affect entitlement to benefits under the Regulations and of any termination of employment by virtue of redundancy or on the grounds of business efficiency;

8.5 that the Admission Body will not resolve to award an Eligible Employee additional pension under Regulation 31 of the LGPS Regulations unless:

(a) the Administering Authority and the Admission Body agree within one month of the date of the resolution (or such longer period as the Administering Authority shall agree) that the Admission Body will pay increased contributions to meet the cost of the award of additional pension; or

(b) the Admission Body pays the appropriate sum to the Administering Authority for credit to the Pension Fund within one month of the date of the resolution (or such longer period as the Administering Authority shall agree);

8.6 not to do any act, omission or thing which would prejudice the status of the Scheme as a registered scheme within the meaning of Chapter 2 of Part 4 of the Finance Act 2004;

8.7 to notify the Administering Authority and the Scheme Employer of any matter which may affect, or is likely to affect, its participation in the Scheme and the Pension Fund; and

8.8 to give immediate notice to the Administering Authority and the Scheme Employer of any actual or proposed change in its status, including but not limited to a take-over, reconstruction or amalgamation, insolvency, winding up, liquidation or receivership, a material change in the nature of its business or constitution, or an event which may give rise to a termination of the Contract.

9. PERIODIC VALUATIONS

9.1 The Administering Authority may periodically obtain from an actuary a certificate specifying, in the case of the Admission Body, the percentage or amount by which, in the actuary's opinion, the contribution rate at the primary rate and/or the secondary rate as relates to the Admission Body within the meaning of the LGPS Regulations should be increased or reduced.

9.2 During the period of this Agreement, the Admission Body's employer contribution rate under Regulation 62 of the LGPS Regulations shall be the same primary rate of employer contributions applicable to the Scheme Employer under the rates and adjustments certificate for the Scheme Employer from time to time but excluding any increase or reduction of that primary rate by any secondary rate of employer contributions applicable to the Scheme Employer. For the avoidance of doubt, this shall mean that the Admission Body's employer contribution rate may vary from time to time during the period of this Agreement in accordance with any variation of the Scheme Employer's primary rate of employer contributions.

9.3 Without prejudice to the Regulations, on the earlier of the termination of this Agreement, the Admission Body no longer employing an Eligible Employee who is an active member participating in the Pension Fund, or the Admission Body ceasing to be a Scheme employer (as that phrase is defined in the Regulations) (the "**Termination Date**"), the Administering Authority shall (with all associated costs borne by the Admission Body) obtain:-

- (a) an actuarial valuation as at the Termination Date of the liabilities of the Pension Fund in respect of the Eligible Employees and any former Eligible Employees, and
- (b) a revised rates and adjustment certificate showing the exit payment (within the meaning of the LGPS Regulations), if any, due from the Admission Body, or the excess of assets in the Pension Fund relating to the Admission Body, in respect of the liabilities specified in (a) above.

For the avoidance of doubt, an exit payment may require that a lump sum payment must be paid by the Admission Body.

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- 9.4 Where a valuation pursuant to this Clause 9 determines that an exit payment is required from the Admission Body, the Admission Body undertakes to pay that exit payment to the Administering Authority over such period of time as the Administering Authority considers reasonable or earlier if required by the Regulations.
- 9.5 Where for any reason it is not possible to obtain all or part of the exit payment due from the Admission Body, or from any person providing an indemnity, bond or guarantee on behalf of the Admission Body, the Scheme Employer shall, in accordance with the Regulations, pay a revised contribution to the Pension Fund so that the assets equivalent to the exit payment due from the Admission Body are provided to the Pension Fund over such period of time as the Administering Authority considers reasonable.
- 9.6 Where, pursuant to the LGPS Regulations, the Administering Authority determines that an exit credit (within the meaning of the LGPS Regulations) is due to the Admission Body, the Administering Authority undertakes to pay that exit credit to the Admission Body within such time frame, if any, as is required in the LGPS Regulations (as amended from time to time).
- 9.7 Where the Administering Authority has paid an exit credit to the Admission Body under Clause 9.5 and/or the Regulations, or where the Regulations do not require an exit credit to be paid to the Admission Body, or where no exit credit as at the Termination Date was determined by the Administering Authority as due, no further payments shall be due from the Administering Authority to the Admission Body in respect of any surplus assets relating to the benefits of any current or former Eligible Employees under this Agreement or in respect of the Regulations.
- 9.8 The Scheme Employer agrees to assume the liabilities of the Pension Fund in respect of the Eligible Employees and any former Eligible Employees from the Termination Date (to the extent that it does not automatically assume liability under the LGPS Regulations) (the “**Residual Liabilities**”) unless, or until such time as, liability passes to another person by operation of the LGPS Regulations. For the avoidance of doubt, the assumption of liability under this Clause shall exclude any exit payment (within the meaning of the LGPS

Regulations) payable by the Admission Body, but without prejudice to any liability of the Scheme Employer which arises pursuant to the LGPS Regulations or Clause 14 of this Agreement.

- 9.9 To the extent that the Regulations, or any other legal requirement, would not permit Clause 9.7 from taking effect the Scheme Employer shall discharge and indemnify the Administering Authority on demand in full and on a continuing basis, in respect of any failure by the Admission Body to satisfy or contribute towards the Residual Liabilities, including in relation to any amount which, but for Clause 9.7, would have been calculated as part of any exit payment (within the meaning of the LGPS Regulations) payable by the Admission Body.

10. TERMINATION

- 10.1 Subject to Clauses 0 and 0, this Agreement shall terminate at the end of the notice period upon any of the parties giving a minimum of three months' notice to terminate this Agreement to the other parties to this Agreement.

- 10.2 This Agreement shall automatically terminate on the earlier of the date of:-

- (a) the expiry or earlier termination of the Contract; and
- (b) the Admission Body ceasing to be an admission body for the purposes of the Regulations.

- 10.3 This Agreement may be terminated with immediate effect by the Administering Authority by notice in writing to the Admission Body in the event of:-

- (a) any material breach by the Admission Body of any of its obligations under this Agreement or the LGPS Regulations **PROVIDED THAT** if the breach is capable of remedy the Administering Authority shall first afford to the Admission Body the opportunity of remedying that breach within such reasonable period as the Administering Authority may specify;
- (b) the insolvency, winding up or liquidation of the Admission Body;
- (c) the Scheme's status as a registered scheme being prejudiced by the participation of the Admission Body in the Pension Fund;

(d) the failure by the Admission Body to pay any sums due to the Administering Authority or to the Pension Fund within a reasonable period after receipt of a notice from the Administering Authority requiring them to do so; or

(e) the failure by the Admission Body to renew or adjust the level of a bond or indemnity in accordance with Clauses 12 and 13 **PROVIDED THAT** if the breach is capable of remedy the Administering Authority shall first afford to the Admission Body the opportunity of remedying that breach within such reasonable period as the Administering Authority may specify.

10.4 The Eligible Employees shall cease to be active members of the Pension Fund by virtue of this Agreement with effect from and including the date of termination.

11. SAVINGS ON TERMINATION

11.1 The termination of this Agreement under any of the provisions of Clause 10 shall not relieve the Admission Body of any obligation to pay any contribution or make any other payment to the Administering Authority which is due and payable under the provisions of the Regulations or this Agreement.

11.2 Notwithstanding such termination, the provisions of Clauses 11, 13 and 14 shall remain in effect but in the case of Clause 13 only for the periods stated in Clause 13.2.

12. RISK ASSESSMENT

12.1 The Admission Body has carried out, to the satisfaction of the Administering Authority and the Scheme Employer, an assessment, taking account of actuarial advice, of the level of risk arising on premature termination of the provision of service or assets by reason of insolvency, winding up, or liquidation of the Admission Body.

12.2 The Admission Body undertakes that it will keep under assessment, to the satisfaction of the Administering Authority and the Scheme Employer, the level of risk arising from the premature termination of the Contract under the circumstances as set out in Clause 12.1 above.

12.3 Where the level of risk identified by a risk assessment is such as to require it, the Admission Body undertakes that it shall enter into an indemnity or bond in a form approved by the Administering Authority and in accordance with the requirements of Paragraph 7 of Part 3 of Schedule 2 to the LGPS Regulations, unless it is deemed not desirable pursuant to Paragraph 8 of Part 3 of Schedule 2 to the LGPS Regulations.

12.4 For the avoidance of doubt the Admission Body shall bear the cost of any actuarial advice required to assess the level of risk exposure.

13. INDEMNITY OR BOND

13.1 The Admission Body undertakes and warrants that, where an indemnity or bond is required under the Regulations, it will maintain such an indemnity or bond, for the amount determined by the Administering Authority, during the period of the Agreement and for a period of six months following termination of this Agreement or until such time, if earlier, that the Admission Body has paid to the Administering Authority all sums due under Clause 9.2(b). Such an indemnity or bond shall be in a form approved by the Administering Authority and given by a person or firm listed in Paragraph 7 of Part 3 of Schedule 2 to the LGPS Regulations and approved by the Administering Authority.

13.2 The sum of any bond required shall be renewed at five yearly intervals, or at such shorter intervals (not being shorter than twelve months) as are requested by the Administering Authority, Scheme Employer or the Admission Body, from the Service Commencement Date to ensure that its amount is still equal to a level of risk exposure, which has been actuarially assessed to the satisfaction of the Administering Authority and the Scheme Employer.

14. GUARANTEE

14.1 In accordance with Paragraph 8 of Part 3 of Schedule 2 to the LGPS Regulations, it has been determined that it would not be desirable for the parties to obtain a bond or indemnity at the date of this Agreement. A guarantee will therefore be provided by the Guarantor in accordance with the Regulations and on the terms of this Clause 14.

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- 14.2 Where on the termination of this Agreement the Admission Body has failed to pay to the Administering Authority any amounts due under this Agreement or the Regulations (which arise as a consequence of this Agreement) within 30 Business Days of receiving a written demand from the Administering Authority the Guarantor shall pay to the Administering Authority such amount.
- 14.3 Any claim by the Administering Authority shall be made by the service of a notice to the Guarantor and the Administering Authority shall provide such information and documents in support of such claim as the Guarantor may reasonably require.
- 14.4 The Guarantor shall pay the amount due within 30 Business Days of receiving a notice pursuant to Clause 14.3.
- 14.5 All sums paid by the Guarantor pursuant to Clause 14.4 shall be held and applied by the Administering Authority for the purpose of paying and discharging the Admission Body's liability under this Agreement and the Regulations.
- 14.6 The Admission Body hereby warrants that the guarantee required by the Regulations is in place by virtue of this Clause 14.

15. SERVICE LEVEL AGREEMENT

- 15.1 The Administering Authority and the Admission Body shall use all reasonable endeavours to comply with the service level agreement in the form shown at APPENDIX 2 to this Agreement as amended or replaced from time to time.

16. NOTICES

- 16.1 Any notice to be given under this Agreement shall be in writing and shall be deemed to be sufficiently served if delivered by hand or sent by prepaid first class post to the registered office of the Admission Body or any Academy Trust that adheres to this Agreement pursuant to Clause 6 or the headquarters address of the Administering Authority or the Scheme Employer or the Guarantor or the office of the Secretary of State (as the case may be) and shall be deemed to have been duly given or made (i) if delivered by hand, upon delivery at the address provided for in this Clause unless such delivery occurs on a day which is not a Business Day or after 4 pm on a Business Day, in which

case it will be deemed to have been given at 9 am on the next Business Day; or (ii) if sent by prepaid first class post, on the second Business Day after the date of posting.

17. PUBLIC INSPECTION

17.1 The Scheme Employer shall make a copy of this Agreement and copies of any Deeds of Adherence available for public inspection at its headquarters address.

18. APPLICABLE LAW

18.1 This Agreement shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

19. RIGHTS OF THIRD PARTIES

19.1 The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

20. NOTIFICATION

20.1 The Administering Authority will as soon as practicable notify the Secretary of State (within the meaning of the Regulations) and HM Revenue & Customs of those matters required to be notified under the Regulations.

21. AMENDMENT

21.1 The Administering Authority, the Scheme Employer and the Admission Body may, with the agreement of all of them, amend this Agreement by deed provided that:-

- (a) the amendment is not such that it would breach the Regulations or any requirement of law as it applies to the Pension Fund;
- (b) the amendment would not prejudice the Pension Fund's status as a "registered scheme" for the purposes of the Finance Act 2004.

22. COUNTERPARTS

22.1 This Agreement may be executed in any number of counterparts and this shall have the same effect as if signatures on the counterparts were on a single copy of this Agreement.

IN WITNESS whereof the parties have executed this Agreement as a **DEED** the day and year first before written

EXECUTED AS A DEED but not)
delivered)

until the date hereof by affixing)

THE COMMON SEAL OF)

HAMPSHIRE COUNTY COUNCIL (in)
its capacity as the administering)
authority of the Pension Fund)

in the presence of:-

EXECUTED AS A DEED but not)
delivered)

until the date hereof by affixing)

THE COMMON SEAL OF)

HAMPSHIRE COUNTY COUNCIL (in)
its capacity as a Scheme employer)
within the Pension Fund)

in the presence of:-

EXECUTED AS A DEED but not
delivered until the date hereof by
[**Admission Body**] acting by two
directors OR a director and its
company secretary

.....
[SIGNATURE OF FIRST DIRECTOR]

.....
[SIGNATURE OF SECOND
DIRECTOR OR COMPANY
SECRETARY]

APPENDIX 1 – INITIAL ELIGIBLE EMPLOYEES

Schedule of transferring staff as at *[insert date]*

Participating employees:

[list to be inserted]

Employees who are eligible but not participating:

[list to be inserted]

APPENDIX 2 – SERVICE LEVEL AGREEMENT

Hampshire Pension Fund

Service Level Agreement – Pension Administration

Definitions

For the purpose of this Service Level Agreement:

"Administering Authority" means Hampshire County Council;

"Employing Authority" means the employer within the Hampshire Pension Fund entering into this agreement; and

"Scheme" means the Local Government Pension Scheme.

1. The Regulations – effect on agreement

This agreement sets out, for administrative convenience, the manner in which certain duties and responsibilities are expected to be carried out. It does not override any provision or requirement in the Regulations or any overriding legislation. The intentions of the Regulations in their application to members, potential members, deferred members and retired members must at all times be complied with.

The regulations forming the basis of this agreement are as follows:

- **Current regulations**
 - The Local Government Pension Scheme Regulations 2013, and any amendments;
 - The Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014, and any amendments;
- Any earlier LGPS regulations as they continue to apply
- Overriding legislation including, but not limited to,
 - The Public Service Pension Act 2013
 - The Local Government (Early Termination of Employment) (Discretionary Compensation)(England and Wales) Regulations 2000
 - The Occupational Pension Scheme (Disclosure of Information) Regulations 1996

2. Administrative procedures – General

2.1. Resources

An Employer's Guide to the Local Government Pension Scheme is issued to each Employing Authority. Reference should also be made to the Hampshire Pension Fund website which has a dedicated employer's area

<http://www3.hants.gov.uk/pensions/lgps/employer-pension-homepage.htm>

The Hampshire Pension Fund will, from time to time as appropriate, amend and update the website and issue an Employer Newsletter notifying all employers of the Hampshire Pension Fund of current issues concerning the administration of the Local Government Pension Scheme.

2.2. Pension Liaison Officer

The Employing Authority shall nominate a Pension Liaison Officer (the "PLO") who will be responsible for pensions matters and who will act as the Administering Authority's primary contact with the Employing Authority. The name, job title and contact details of the nominated PLO is shown at Appendix A of this Service Level Agreement. Should the Employing Authority wish to nominate more than one PLO (up to a maximum of four) the above details should be provided for each PLO at Appendix A along with a description of each PLO's specific responsibilities.

The Employing Authority is required to notify the Administering Authority of any changes to the PLOs immediately. It is the Employing Authority's responsibility to ensure that details of the PLOs held by the Administering Authority are correct.

2.3. Variations to the agreement

Any variations to this Service Level Agreement must be discussed with the Administering Authority first and if agreed must be confirmed in writing by the Employing Authority.

3. Employing Authority Responsibilities

3.1. Duties – General

The main duties of the Employing Authority as set out in the Regulations are to:

- i) Decide who is eligible to become a member of the LGPS and the date from which membership of the LGPS starts (backdating membership is not possible);
- ii) Notify the Administering Authority of the new member details and provide employee with details of the pension scheme;
- iii) Determine the rate of employee contributions to be deducted from the employee's pensionable pay and, where the employee holds more than one post, the rate that should be applied to each post;
- iv) Move employees into the 50:50 section of the Scheme where appropriate;
- v) Collect and pay over to the Administering Authority the deduction of the correct rate of pension contributions payable by the employee and the

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- Employing Authority, including any additional employee contributions of any kind;
- vi) Complete monthly remittance form containing detail of the contributions payment;
 - vii) Collect and pay over Additional Voluntary Contributions (AVC) to the specified AVC provider in accordance with statutory timescales, Notify the Administering Authority of a member's election to pay, vary or cease AVCs;
 - viii) Refund contributions through the payroll to any employee who opts out of the Scheme with less than 3 months membership;
 - ix) Calculate assumed pensionable pay for any employees who met this requirement under the regulations;
 - x) When an employee ceases membership of the LGPS determine the reason for leaving and entitlement to benefit and notify the Administering Authority, supplying timely and accurate information to the Administering Authority so that benefits payment from the LGPS are calculated correctly;
 - xi) Use an independent registered medical practitioner qualified in occupational health medicine (who has been approved by the Administering Authority) in determining ill health retirement.
 - xii) Write, publish and maintain a policy on areas of the regulations in which employers of the Scheme can exercise their discretion;
 - xiii) Appoint a person to consider applications from members regarding decisions, acts or omissions and to decide on those applications;
 - xiv) Provide annual information to the Administering Authority with full details of the contributions paid by members in the year. Respond to queries on the annual return raised by the Administering Authority;
 - xv) Determine final pay for the purposes of calculating benefits due from the Scheme;
 - xvi) The Employing Authority will maintain records for each member for the purposes of determining membership and entitlement to benefits. The Employing Authority must keep a full pay history for the 13 years, ending 31 March, before the member leaves the Scheme;
 - xvii) Notify the Administering Authority of changes to an employee's status or of a break in membership;
 - xviii) Notify the Administering Authority of a member's death and next of kin details;
 - xix) Supply required information for completion of an estimate;
 - xx) Distribute annual benefit statements and any other notifications to active members as requested by the Administering Authority;

The above is a summary of the main duties of an Employing Authority under the Regulations. In the event of doubt the Regulations must be consulted for clarification.

3.2. Duties – specific

3.2.1. New Scheme members (see 3.2.3 for TUPE transfers)

Upon notification that an individual has entered an employment for which he or she is eligible for membership of the Scheme, the Employing Authority shall automatically admit that individual to the Scheme (unless a written election has been received from the employee choosing not to join the Scheme) and notify the Administering Authority of a new scheme admission by completing form Starter form **within ten working days** from the end of the month in which the member joined the Scheme, supplying the information required on the starter form or otherwise by reference to the Employer Hub guidance manual.

As part of the employee's appointment process, the Employing Authority will provide access to a pensions starter pack to the employee containing:

- member option form
- transfer booklet
- death grant 'expression of wish' form
- summary scheme guide

These packs are available from the Administering Authority via the pensions website. <http://www3.hants.gov.uk/pensions/lgps/new-member-2/new-member-forms.htm>

3.2.2. Changes to membership status

The following changes to a Scheme member's status must be notified to the Administering Authority by completing an amendment to pension record form **within ten working days** from the end of the month in which the change takes effect or by reference to the Employer Module procedure manual:

- a) change of name (attach relevant documentation);
- b) change of partnership status (attach relevant documentation);
- c) change of weekly contractual hours;
- d) change of contractual weeks worked per year;
- e) change of home address;
- f) change of pay/post reference; and
- g) breaks in service (where pension costs are not paid).

3.2.3. TUPE transfers

Special arrangements apply where staff move under the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("**TUPE**") from

one employer of the Hampshire Pension Fund to another. Part A of the two part TUPE form must be completed by the ceding employer. The TUPE form should then be passed to the new employer who is asked to complete Part B and send this to Pensions Services.

No further action is required as the membership is automatically linked. As this is continuous unbroken membership of the scheme it is not necessary to issue the member with a starter pack.

3.2.4. Leavers (non-retirements)

Upon notification that a Scheme member's period of employment has terminated, or should a Scheme member elect to opt out of the Scheme, the Administering Authority should be notified by the Employing Authority completing the leaver's form **within ten working days** from the end of the month in which the employee was last paid:

Note: where a Scheme member opts out of the Scheme within the first three months of joining, the Employing Authority shall refund all contributions previously paid by the member to the member through the payroll system thereby automatically adjusting the Income Tax and National Insurance record of the employee.

3.2.5. Retirements (including normal age, redundancy, efficiency, ill health and other early retirements)

Once known that a Scheme member is to retire, the Employing Authority will notify the Administering Authority immediately and, in any event, at least 20 working days in advance of the retirement date by completing a leaver form. The Employing Authority should also issue the member with a retirement declaration form (available on the Hampshire Pension Fund website).

The Employing Authority will make payment of all early retirement costs as instructed by the Administering Authority and in accordance with the Regulations and the Pension Administration Strategy Statement.

It is important to note that the service standards to members states that retirement lump sums will be paid within ten working days of retirement.

It is essential that the above information is supplied in a timely manner in order to achieve this requirement. Where this deadline cannot be achieved as a result of a delay in information being supplied by the Employing Authority to the Administering Authority, the Administering Authority will issue the Employing Authority with a written notice of unsatisfactory performance and may charge the Employing Authority for any interest that becomes payable.

NOTE: ill health retirements

In cases of ill health retirement, the Employing Authority will arrange for the employee to undergo a medical with their chosen and approved independent registered and qualified occupational physician, obtaining a report detailing that the employee is permanently incapable of performing the duties of his or her employment and the level of ill health retirement that should be applied as determined by the member's ability to obtain gainful employment in the future. This requirement must be met in accordance with the Regulations. A copy of the medical practitioner's certificate must be sent to the Administering Authority when notifying them that a Scheme member is retiring on these grounds.

Should the Employing Authority at any time seek to appoint a different independent registered and qualified occupational physician for the purposes of undertaking the responsibilities outlined in the Regulations, they must seek the approval of the Administering Authority before appointing the new preferred practitioner.

Forms for the processing of ill health retirements are on the employer's area of the website. <http://www3.hants.gov.uk/pensions/lqps/employer-pension-homepage/employer-forms-section/ill-health-forms.htm>

3.2.6. Payment of contributions

The Employing Authority will ensure that the correct rate of employer contribution is deducted in accordance with the Rates and Adjustment Certificate issued by the Fund Actuary as part of the triennial valuation of the Fund.

The Employing Authority will make payment of employee and employer contributions to the Administering Authority via the Hampshire Pension Fund account within 19 days of the end of the month in which contributions have been deducted. ***(It should be noted that this is the legal requirement. However, contributions should always be submitted as soon as is practicably possible).***

NOTE: where payment is made after the 19th of the month on more than one occasion in any 12 month period, the Administering Authority will issue the Employing Authority with a written notice of unsatisfactory performance and may charge interest on the late payment at a daily rate equal to the Bank of England's base rate plus 1%.

The Employing Authority will complete the remittance advice form giving full and accurate information.

3.2.7. Other conditions relating to contributions

The Employing Authority will ensure that:

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- i. contributions are deducted from any pensionable pay received by the member;
 - ii. contributions are deducted from any pay received during a period of statutory sickness;
 - iii. Where a member has an absence that results in a period of nil pay due to authorised unpaid leave or parental leave, they will ensure that the member is aware of the ability to elect within 30 days of returning to work (or longer if the employer allows), to buy back lost pension through a shared cost additional pension contribution (SCAPC) where applicable;
 - iv. Where a member has an absence that results in a period of nil pay due to industrial action, they will ensure that the member is aware of their ability to buy back lost pension through an employee only additional pension contribution (APC);
 - v. The Employing Authority will notify the Administering Authority of any break in membership that is not covered by a SCAPC or APC.

3.2.8. Annual Returns and triennial valuation

The Employing Authority will, by no later than 30 April each year, provide the Administering Authority with an end of year schedule as detailed in a guidance note and spreadsheet.

The Employing Authority will respond within 10 working days to requests made by the Administering Authority for further information and clarification of issues raised from the annual return of contributions.

The Employing Authority will respond within 10 working days to requests made by the Administering Authority for further information and clarification of issues raised from the triennial valuation of the Hampshire Pension Fund.

3.2.9. Pension estimates

The Employing Authority will, as part of their request for a pension estimate in respect of one of their Scheme members, provide the Administering Authority with details of the member's proposed date of leaving, the reason for leaving, the relevant pay figures and the number of additional pension (if any) to be granted at the Employing Authority's discretion. The estimate request form can be found on the Employing Authority's area of the Hampshire Pension Fund website along with guidance as to how many estimates per year can be requested etc.

<http://www3.hants.gov.uk/pensions/lqps/employer-pension-homepage/employer-forms-section/st8d-request-an-estimate-form.htm>

3.2.10. Termination of admission

If the Employing Authority has been admitted to the Hampshire Pension Fund

as an "admission body" pursuant to an "admission agreement" the Employing Authority shall notify the Administering Authority of the following within 10 working days (or such other period as may be specified in the admission agreement):

- a) the date when the Employing Authority ceased to employ active members;
- b) the date when the admission agreement terminated or ceased to have effect; and
- c) any breach of the terms of the admission agreement.

4. Employing Authority discretions

The Employing Authority will review and maintain its policy regarding the discretions available under the Regulations and will notify the Administering Authority and Scheme members in their employ of any changes to those policies within 30 days of the changes taking effect. The discretions afforded to an employer of the Scheme by the 2013 Regulations are set out below.

4.1. Mandatory Policy required in respect of the following discretions:

- i) Whether, how much, and in what circumstances to contribute to a shared cost Additional Pensions Contribution (APC) scheme (Regulation 16(2)(e) and 16(4)(d));
- ii) Whether to "switch on" the 85 year rule for a member voluntarily drawing benefits on or after age 55 and before age 60 (Transitional Provisions Schedule 2, paragraphs 1(2) and 2(2));
- iii) Whether all or some benefits can be paid if an employee reduces their hours or grade (flexible retirement) (Regulation 30(6));
- iv) Whether to waive in whole, or in part, actuarial reduction on benefits which a member voluntarily draws before normal pension age (Regulations 30(8) and 30(5) 2013) (Regulation 30(5) and 30A(5) 2007) and (Transitional Provisions 3(1) and (5));
- v) Whether to grant additional pension to an active member or within 6 months of ceasing to be an active member, by reason of redundancy or business efficiency (by up to £6,500 p.a.) (Regulation 31)

4.2. Additional Policy recommended in respect of the following discretions:

- i) Whether to extend the 12 month option period for a member to elect that deferred benefits should not be aggregated with an ongoing concurrent employment (Regulation 22 (7)(b),(8)(b))
- ii) Extend normal time limit for acceptance of a transfer value beyond 12 months from joining the LGPS (Regulation 100(6))

The Administering Authority undertakes that it will not give members any expectation as to how the Employing Authority will exercise any discretion.

4.3. Internal dispute resolution procedure (IDRP)

- 4.3.1. The Employing Authority will ensure compliance with its duties under sections 72 to 80 of the Local Government Pension Scheme Regulations 2013 and shall abide by any additional IDRP requirements of the Administering Authority.
- 4.3.2. The Employing Authority will appoint an adjudicator as required by the Regulations and will notify the Administering Authority of the person appointed. The Employing Authority will notify the Administering Authority immediately should the person appointed as adjudicator change.

5. Administering Authority responsibilities - operational

5.1. New scheme members

The Administering Authority will set up a record for each new member and issue a Statutory Notification **within 20 working days** from the end of the month in which the Employing Authority notified they became a member.

5.2. Changes to membership status

The Administering Authority will amend a member's record within 15 working days of the end of the month in which the change was notified.

5.3. Leavers and retirements

- 5.3.1. The Administering Authority will perform all benefits calculations for retirements within 15 working days of receipt of all information enabling the final calculation to be made and within 40 working days of receipt of all information for deferred benefits.
- 5.3.2. The Administering Authority will make available to all deferred beneficiaries a benefit statement annually detailing the accrued benefits to the date of leaving along with details of the other options available to the member in accordance with the Regulations.
- 5.3.3. The Administering Authority will make payment of all retirement lump sums within 10 working days of the date of retirement unless:
 - d) the member has failed to provide all relevant information necessary to enable the Administering Authority to perform the final benefit calculations; or
 - e) the Employing Authority has failed to provide the Administering Authority with sufficient information to enable them to complete the final benefit calculations.

NOTE: where, as a result of the Employing Authority's failure to notify the Administering Authority of the final retirement details in a timely manner, payment of any retirement lump sum is not made within 10 working days from the date of the member's retirement, the Administering Authority will issue the Employing Authority with a written notice of unsatisfactory performance and may charge the Employing Authority for the interest payment made.

5.4. Changes in administrative procedures

The Administering Authority will notify the Employing Authority of any changes to administrative procedures that may arise as a result of changes in Scheme regulations and update standard documentation on the Hampshire Pension Fund website. Where practicable, the Administering Authority will consult with employers on other changes to administrative procedures via the Employer Focus Group

5.5. Employer forums

The Administering Authority will hold six-monthly meetings with employers via the Employer Focus Group

The Administering Authority will provide presentations or written communications to the Employing Authority on an ad hoc basis and as required in respect of all matters relating to the Scheme.

A pension forum will be held on an annual basis in order to keep employers up to date with matters relating to the performance of the Hampshire Pension Fund and Scheme issues.

5.6. Scheme member database

The Administering Authority will maintain a database of all Scheme members employed by the Employing Authority.

5.7. Scheme member enquiries

The Administering Authority will answer enquiries made by Scheme members employed by the Employing Authority and respond to such enquiries **within 5 working days** or sooner where possible. Where an enquiry will take longer than 10 days to resolve, the Administering Authority will notify the scheme member accordingly and keep him or her up to date with any progress made.

5.8. Employing Authority enquiries

The Administering Authority will respond to enquiries made by the Employing Authority **within 5 working days** or sooner where possible. Where an

enquiry will take longer than 5 days to resolve, the Administering Authority will notify the Employing Authority and keep the Employing Authority up to date with the progress made.

5.9. Annual Benefit Statements

The Administering Authority will issue annual benefit statements on the 'member portal' to active members or via their employer where written notification is received to opt out of member portal. This will be by 31 August after relevant annual return information from the Employing Authority is received and uploaded or in any case not later than prescribed in the regulations.

5.10. Pensions estimates

The Administering Authority will provide an estimate of pension benefits upon request from the Employing Authority **within 20 working days** of receipt of all relevant information. Where the estimate is in respect of an early retirement, the Administering Authority will provide the Employing Authority with details of the full capital costs to be paid by them.

5.11. Early retirements

Upon completion of an early retirement calculation, the Administering Authority will provide to the Employing Authority, **within 10 working days**, details of the final capital costs to be paid by the Employing Authority to the Fund.

5.12. Pensions increases

The Administering Authority will apply pensions increases annually to the relevant pensions in payment and deferred pensions retained in the Fund in accordance with the Pensions Increase (Review) Order issued by The Government.

6. Administering Authority responsibilities - strategic

6.1. Regulations

The Administering Authority will notify the Employing Authority of any significant changes to:

- a) Regulations that might affect Scheme members in their employ;
- b) policies made by the Administering Authority under the Regulations; or
- c) procedures adopted by them in accordance with this Service Level Agreement.

Advice will be given to the Employing Authority in respect of matters arising from the interpretation and implementation of the Regulations.

6.2. Scheme contributions

The Administering Authority will allocate all contributions submitted by the employers to their respective income codes and reconcile the total contributions paid on a yearly basis.

6.3. Fund Actuary

- 6.3.1. The Administering Authority will correspond with and commission any advice required of the Fund Actuary on behalf of the Employing Authority in respect of any matters that may arise which require the determination of the Fund Actuary. Where possible the Administering Authority will inform the Employing Authority in advance of the proposed actuarial charges that will be payable by the Employing Authority for the relevant advice.
- 6.3.2. The Administering Authority will arrange for the triennial valuation of the Hampshire Pension Fund and provide the Employing Authority with a copy of the Fund Actuary's valuation report and a copy of the annual report and statement of accounts.
- 6.3.3. The Administering Authority will arrange for the annual accounting report to be provided to all Employing Authorities requiring such a report.

6.4. Internal Disputes Resolution Procedure (IDRP)

- 6.4.1. The Administering Authority will ensure compliance with its duties under sections 72 to 80 of the Local Government Pension Scheme Regulations 2013 and will inform the Employing Authority of any additional IDRP requirements that the Employing Authority must undertake.
- 6.4.2. The Administering Authority will make available details of the person it has appointed as adjudicator pursuant to the regulations.

6.5. Publicity and promotion

The Administering Authority will make available to employers an up to date list of Scheme publications which will be available from the Hampshire Pension Fund website or as otherwise indicated.

6.6. Data Protection

The Administering Authority will ensure compliance with Data Protection legislation.

7. Compliance

Where it is proven that as a result of any non-compliance by the Employing Authority in respect of any of the requirements of this Service Level Agreement, the Administering Authority suffers any fine or financial penalty as imposed by The Pensions Regulator or any other statutory body, that penalty to the extent that it relates to acts or omissions of the Employing Authority shall be transferred to the Employing Authority for settlement in accordance with the guidelines issued by the relevant Statutory body at the time that the penalty is imposed.

Where it is proven that the Employing Authority is not responsible for any fine or penalty imposed by The Pensions Regulator or any other statutory body as a result of non-compliance of this Service Level Agreement, any such charge will automatically default to the Administering Authority.

Where the performance of the Employing Authority is such that it leads to the deployment of additional and disproportionate resources on the part of the Administering Authority, the cost of the additional resources may be re-charged to the Employing Authority at a rate of £150 per incident or 10% of the sum involved, whichever is greater, but only where the Administering Authority has advised the Employing Authority that performance has necessitated deployment of additional and disproportionate resources and has also provided details of the nature and extent of the additional and disproportionate element of the resources that the Administering Authority suggests it is necessary to deploy.

This document was reviewed and updated by the Hampshire Pension Fund in June 2018.

Service Level Agreement

Pensions Administration

This service level agreement has been produced by the Administering Authority to the Hampshire Pension Fund.

It is an agreement between the Hampshire Pension Fund and all participating bodies.

It is understood that the Administering Authority shall monitor the requirements of this agreement and report its findings to the Pension Fund panel.

It is hereby agreed that each of the parties as defined in this agreement and the scheme regulations, shall abide by the requirements of this agreement.

Signed as a deed by the parties hereto:-

(Insert Name & Position held) (Insert Employing Authority name)

Please retain a copy of this agreement for your records.

The original will be held at the offices of the Hampshire Pension Fund and will be made available for viewing by any scheme member, past or present, wishing to have sight of the document.

APPENDIX A – NOMINATED PENSION LIAISON OFFICER(S)

Name of Employing Authority

Date

First nominated person	
Name	
Job Title	
Direct telephone number	
Email address	
Specific responsibilities (if more than one PLO is nominated)	
Second nominated person	
Name	
Job Title	
Direct telephone number	
Email address	
Specific responsibilities (if more than one PLO is nominated)	
Third nominated person	
Name	
Job Title	
Direct telephone number	
Email address	
Specific responsibilities (if more than one PLO is nominated)	

APPENDIX B – Authorised signatories for pension charges

Name of Employing Authority

Date

First authorised person	
Name	
Job Title	
Direct telephone number	
Email address	
Signature	
Second authorised person	
Name	
Job Title	
Direct telephone number	
Email address	
Signature	
Third authorised person	
Name	
Job Title	
Direct telephone number	
Email address	
Signature	

Hampshire Pension Fund
Pensions Contacts

Employer queries	
servdev.pensions@hants.gov.uk	
Finance queries	
pensions.finance@hants.gov.uk	
General pensions queries	
01962 845588 pensions@hants.gov.uk	Website: www.hants.gov.uk/finance/pensions

APPENDIX 3 – FORM OF DEED OF ADHERENCE

DEED OF ADHERENCE

relating to an admission agreement dated []

Hampshire County Council (in its capacity as the administering authority of the Hampshire Pension Fund) (1)

Hampshire County Council (in its capacity as a Scheme employer within the Hampshire Pension Fund) (2)

and

[Admission Body] (3)

and

[Adhering Trust] (4)

THIS AGREEMENT is made on
202[]

PARTIES

- (1) **HAMPSHIRE COUNTY COUNCIL** (in its capacity as the administering authority of the Pension Fund) whose principal office is at The Castle, Winchester SO23 8UB (the "**Administering Authority**");

- (2) **HAMPSHIRE COUNTY COUNCIL** (in its capacity as a Scheme employer within the Pension Fund) whose principal office is at The Castle, Winchester SO23 8UB (the "**Scheme Employer**");
- (3) [**Admission Body**] (company no.) whose registered office is at [insert address] (the "**Admission Body**"); and
- (4) [**Adhering Trust**] (a company limited by guarantee with company no. []) whose registered office is at [insert address]] (the "**Adhering Trust**").

BACKGROUND

- (A) The Administering Authority is an administering authority within the meaning of the Regulations and administers and maintains the Pension Fund.
- (B) The Scheme Employer is a scheme employer within the meaning of the Regulations. The Adhering Trust is an Academy Trust and a Scheme employer within the meaning of the Regulations participating in the Pension Fund.
- (C) With effect from [**insert service commencement date**] the Admission Body provides services or assets in connection with the exercise of a function of the Scheme Employer (as the maintaining authority of the Maintained Schools) pursuant to the Contract. As a result of this, the employments of the Initial Eligible Employees transferred to the Admission Body on and from the Service Commencement Date.
- (D) As at the date of this Agreement, the Administering Authority, the Scheme Employer and the Admission Body have entered the Admission Agreement to enable: (1) the Initial Eligible Employees, and (2) any Future Eligible Employees, to continue to be members of the Scheme and to participate in the Pension Fund and/or to continue to be eligible for membership subject to the terms of this Agreement.
- (E) Where under the Contract services are provided (or to be provided) to an Academy Trust (in relation to one or more of its academy schools located in the Hampshire Pension Fund area), the Admission Body wishes to designate under the Admission Agreement relevant Future Transferred Staff (as defined and described in the recitals to the Admission Agreement), and the Administering Authority and the Scheme Employer decide to agree to that, the parties acknowledge that the relevant Academy Trust would, in that circumstance, be the relevant Scheme employer for the purposes of Paragraph 1(d), Part 3, Schedule 2 to the LGPS Regulations. As such, the parties further acknowledge that the relevant Academy Trust would, pursuant to Paragraph 3, Part 3, Schedule 2 to the LGPS Regulations, need to be party to the Admission Agreement in relation to those relevant Future Transferred Staff. To provide for this, clause 6 of the Admission Agreement provides that the parties to the Admission Agreement may agree to allow one or more Academy Trust(s) to adhere to the Admission Agreement, by way of entering into a Deed of Adherence with each such Academy Trust.
- (F) As at the date of this Deed, due to a contract between the Scheme Employer [**and**], the Adhering Trust [**add any other parties**] dated [**add date**] (the "**SE & AT Contract**"), the Admission Body [**provides**][**will provide**] services under the

Contract to the Adhering Trust (in relation to one or more of its academy schools located in the Hampshire Pension Fund area). As a result of this, the employments of the Relevant Eligible Employees [transferred][will transfer] to the Admission Body on and from the Commencement Date.

(G) The parties have agreed to enter into this Deed so that:

the Adhering Trust is adhered to, and becomes of, the Admission Agreement;

the Admission Agreement is amended in the ways set out in this Deed (the Administering Authority, the Scheme Employer and the Admission Body being satisfied that the amendments set out in this Deed are not caught by the restrictions in clause 21 of the Admission Agreement); and

the designation of the Relevant Eligible Employees pursuant to clause 4.1A of the Admission Agreement, and the agreement of the Administering Authority and the Scheme Employer to that designation (such that the Relevant Eligible Employees may continue to be members of the Scheme and to participate in the Pension Fund and/or to continue to be eligible for membership subject to the terms of the Admission Agreement), is recorded.

(H) Under the Admission Agreement, the Scheme Employer has agreed to assume (to the extent that it does not automatically assume liability under the LGPS Regulations) the liabilities of the Pension Fund in respect of the Eligible Employees and any former Eligible Employees (including any Future Eligible Employees and former Future Eligible Employees) from the termination date of the Admission Agreement. [The parties wish to agree that this assumption of liability shall not apply in relation to the Relevant Eligible Employees or any former Relevant Eligible Employees and instead that the Adhering Trust will agree to assume the liabilities in the Pension Fund in respect of the Relevant Eligible Employees and any former Relevant Eligible Employees from such time as the services provided to it under the Contract cease, as a result of the SE & AT Contract ending or otherwise.] **[DN – include this square bracket text if the Scheme Employer is not agreeing to take on underlying liability for the transferring staff, e.g. where those staff are transferring direct from the Adhering Trust or its previous provider of catering services.]** OR [The Adhering Trust wishes to agree and acknowledge that should the services

provided to it under the Contract cease, as a result of the SE & AT Contract ending or otherwise, unless the Adhering Trust's new provider of the services that were formerly provided under the Contract is the Scheme Employer, the Adhering Trust will, under operation of the LGPS Regulations, assume the liabilities of the Pension Fund in respect of those Relevant Eligible Employees whose employments transfer to the Adhering Trust or its service provider at that time.] **[DN – include this square bracket if the Scheme Employer is agreeing a take on the underlying liabilities of the transferring staff – this sets out the position for any staff remaining in service at the time of any onward TUPE transfer should the Academy decide to exit the outsourcing arrangements.]**

OPERATIVE PROVISIONS

1. INTERPRETATION

1.1 In this Deed, the following words shall have the meaning given to them below:

"Admission Agreement" means the admission agreement (semi-open) dated **[add date]** between the Administering Authority, Scheme Employer and Admission Body;

"Commencement Date" means the date on which the Relevant Eligible Employees transfer to the Admission Body, pursuant to the Contract;

"Relevant Eligible Employees" means the employees listed in Appendix 1 whose employments transfer to the Admission Body as a result of the Contract, and who, in relation to those employments, are either active members of the Scheme and Pension Fund or eligible to join immediately before the Commencement Date, and who (as recorded in this Deed) are designated and remain designated under Clause 4.1A of the Admission Agreement; and

"SE & AT Contract" has the meaning given to that term in Background section (C).

1.2 Save as aforesaid the words and expressions used in this Deed shall have the same respective meanings as in the Admission Agreement and the Regulations unless the context otherwise requires.

1.3 In this Deed where the context so admits:-

- (a) words denoting the singular shall include the plural and vice versa, words denoting the masculine gender shall include the feminine gender and vice versa and words denoting persons shall include corporations unincorporated associations and partnerships;
- (b) reference to any legislative provisions shall be deemed to include reference to any such provisions as from time to time amended varied replaced extended or re-enacted and/or subordinate legislation under such provisions unless the context otherwise requires;
- (c) reference to Clauses or Schedules or Appendices shall be deemed to be references to a Clause or a Schedule or an Appendix to this Deed and references to a sub-Clause shall be deemed to be a reference to a Sub-Clause of the Clause in which the reference appears; and
- (d) headings are included for ease of reference only and shall not affect this Deed or its interpretation.

2. COMMENCEMENT DATE

This Deed shall have effect from and including the Commencement Date.

3. ADHERENCE OF THE ADHERING TRUST

3.1 The Administering Authority, Scheme Employer and Admission Body hereby agree to the adherence of the Adhering Trust to the Admission Agreement in accordance with clause 6 of the Admission Agreement.

3.2 The Adhering Trust hereby agrees to its adherence to the Admission Agreement and becoming a party to it but acknowledges that its status under the Admission Agreement is subject always to clause 1.3(d) of the Admission Agreement.

4. ADMENDMENTS TO THE ADMISSION AGREEMENT

Pursuant to clause 21 of the Admission Agreement, the Administering Authority, Scheme Employer and Admission Body hereby amend the Admission Agreement in the following ways:

- (a) clause 5.2 is amended so that the Admission Body must, in addition to notifying in writing the Administering Authority and the Scheme Employer, also notify the Adhering Trust in writing if any Relevant Eligible Employees cease to meet the definition of Eligible Employee (this obligation to notify the Adhering Trust shall be met on behalf of the Admission Body by the Scheme Employer giving such notification to the Adhering Trust as soon as reasonably practicable after it receives notification of the matter from the Admission Body);
- (b) clauses 7.6 is amended so that the Adhering Trust is:
- (i) given the same power as the Scheme Employer to set off against any payments due to the Admission Body as is set out in that clause; and
 - (ii) under the same obligation as the Scheme Employer to pay the value of any such set off amounts to the Pension Fund,
- (c) clauses 8.3, 8.4, 8.7 and 8.8 are amended to provide that the Admission Body shall notify the Adhering Trust of the matters set out in those clauses, in addition to notifying the Administering Authority and the Scheme Employer (this obligation to notify the Adhering Trust shall be met on behalf of the Admission Body by the Scheme Employer giving such notification to the Adhering Trust as soon as reasonably practicable after it receives notification of the matter from the Admission Body);
- (d) [clauses 9.8 and 9.9 are amended so that in relation to the liabilities in the Pension Fund in respect of the Relevant Eligible Employees and any former Relevant Eligible Employees the Adhering Trust shall take on in full the obligations of the Scheme Employer set out in those clauses but with effect from the date on which the services provided to it under the Contract cease, as a result of the SE & AT Contract ending or otherwise rather than the Termination Date;] ***[DN – include this provision if the Scheme Employer is not agreeing to take on underlying liability for the transferring staff]***
- (e) clause 12.2 is amended such that, in addition to having to keep under assessment to the satisfaction of the Administering Authority and the

Scheme Employer the level of risk mentioned in that clause, the Admission Body must also keep it under assessment to the satisfaction of the Adhering Trust; and

- (f) clause 17 is amended so that the Adhering Trust is under the same obligation as the Scheme Employer, such that the Adhering Trust must make copies of the Admission Agreement and this Deed available for public inspection at its headquarters address.

5. RECORD OF DESIGNATION

This Deed hereby records that for the purposes of the designation under clause 4.1A of the Admission Agreement:

- (a) the Admission Body has notified the Administering Authority and the Scheme Employer that the Relevant Eligible Employees are Future Eligible Employees;
- (b) the Administering Authority and Scheme Employer have agreed to the Relevant Eligible Employees being designated by the Admission Body; and
- (c) the Commencement Date is the relevant Future Service Commencement Date in relation to the Relevant Eligible Employees.

6. ASSUMPTION OF LIABILITY

The Adhering Trust agrees and acknowledges that [the effect of the amendments made at Clause (d) above is that it will assume the liabilities in the Pension Fund in respect of the Relevant Eligible Employees and any former Relevant Eligible Employees from such time as the services provided to it under the Contract cease, as a result of the SE & AT Contract ending or otherwise] **[DN – include this wording if the Scheme Employer is not agreeing to take on underlying liability for the transferring staff] OR** [should the services provided to it under the Contract cease, as a result of the SE & AT Contract ending or otherwise, unless the Adhering Trust's new provider of the services that were formerly provided under the Contract is the Scheme Employer, the Adhering Trust will, under operation of the LGPS Regulations, assume the liabilities of the Pension Fund in respect of those Relevant Eligible Employees whose employments transfer to the Adhering Trust or its service provider at that time.] **[DN – include this square bracket if the Scheme Employer is agreeing to take on the underlying liabilities of the transferring staff]**

7. NOTICES

Any notice to be given under this Deed shall be in writing and shall be deemed to be sufficiently served if delivered by hand or sent by prepaid first class post to the registered office of the Admission Body or the Adhering Trust or the headquarters address of the Administering Authority or the Scheme Employer (as the case may be) and shall be deemed to have been duly given or made (i) if delivered by hand, upon delivery at the address provided for in this Clause unless such delivery occurs on a day which is not a Business Day or after 4 pm on a Business Day, in which case it will be deemed to have been given at 9 am on the next Business Day; or (ii) if sent by prepaid first class post, on the second Business Day after the date of posting.

8 APPLICABLE LAW

This Deed shall be governed by and construed in accordance with English Law and the parties hereby submit to the exclusive jurisdiction of the English Courts.

9 RIGHTS OF THIRD PARTIES

The parties to this Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

10 AMENDMENT

The parties to this Deed may, with the agreement of all of them, amend this Deed by deed provided that:-

- (a) the amendment is not such that it would breach the Regulations or any requirement of law as it applies to the Pension Fund; and
- (b) the amendment would not prejudice the Pension Fund's status as a "registered scheme" for the purposes of the Finance Act 2004.

11 COUNTERPARTS

This Deed may be executed in any number of counterparts and this shall have the same effect as if signatures on the counterparts were on a single copy of this Agreement.

IN WITNESS whereof the parties have executed this Agreement as a **DEED** the day and year first before written

EXECUTED AS A DEED but not)
delivered)

until the date hereof by affixing)

THE COMMON SEAL OF)

HAMPSHIRE COUNTY COUNCIL (in)
its capacity as the administering)
authority of the Pension Fund)

in the presence of:-

EXECUTED AS A DEED but not)
delivered)

until the date hereof by affixing)

THE COMMON SEAL OF)

HAMPSHIRE COUNTY COUNCIL (in)
its capacity as a Scheme employer)
within the Pension Fund)

in the presence of:-

EXECUTED AS A DEED but not
delivered until the date hereof by
[Admission Body] acting by two
directors OR a director and its
company secretary

.....
[SIGNATURE OF FIRST DIRECTOR]

.....
[SIGNATURE OF SECOND
DIRECTOR OR COMPANY
SECRETARY]

EXECUTED AS A DEED but not
delivered until the date hereof by
[Adhering Trust] acting by two

.....

directors OR a director and its company [SIGNATURE OF FIRST DIRECTOR]
secretary

.....
[SIGNATURE OF SECOND
DIRECTOR OR COMPANY
SECRETARY]

APPENDIX 4 – RELEVANT ELIGIBLE EMPLOYEES

Schedule of transferring staff as at *[insert date]*

Participating employees:

[list to be inserted]

Employees who are eligible but not participating:

[list to be inserted]

Schedule 10 (Contract Management)

1. Definitions

1. In this Schedule, the following words shall have the following meanings and they shall supplement clause 1 (Interpretation)

"Operational Board"	the board established in accordance with paragraph 4.1 of this Schedule;
"Project Manager"	the manager appointed in accordance with paragraph 2.1 of this Schedule;

2. Project Management

1. The Council and the Provider shall each appoint a Project Manager for the purposes of this Agreement through whom the provision of the Services shall be managed day-to-day.
2. The Parties shall ensure that appropriate resource is made available on a regular basis such that the aims, objectives and specific provisions of this Agreement can be fully realised.

3. Role of the Council Contract Manager

1. The Council's Contract Manager's shall be:
 1. the primary point of contact to receive communication from the Provider and will also be the person primarily responsible for providing information to the Provider;
 2. able to delegate his position to another person at the Council but must inform the Provider before proceeding with the delegation and it will be delegated person's responsibility to fulfil the Contract Manager's responsibilities and obligations;
 3. able to cancel any delegation and recommence the position himself; and
 4. replaced only after the Provider has received notification of the proposed change.
2. The Council may provide revised instructions to the Provider's Contract Manager's in regard to the Contract and it will be the Provider's Contract Manager's responsibility to ensure the information is provided to the Provider and the actions implemented.
3. Receipt of communication from the Council's Contract Manager's by the Provider does not absolve the Provider from its responsibilities, obligations or liabilities under the Agreement.

4. Role of the Operational Board

1. The Operational Board shall be established by the Council for the purposes of this Agreement on which the Council and the Provider shall be represented.
2. In the event that either Party wishes to replace any of its appointed board members, that Party shall notify the other in writing for approval by the other Party (such approval not to be unreasonably

withheld or delayed). Each Provider board member shall have at all times a counterpart board member of equivalent seniority and expertise.

Schedule 11 VARIATION PROCEDURES

1. Principles

- 1.1. Where the Council or the Provider see a need to change this Agreement the Council may at any time request, and the Provider may at any time recommend, such change only in accordance with the formal Variation Procedure as set out at paragraph 2 of this Schedule11.
- 1.2. Neither the Council nor the Provider shall unreasonably withhold its agreement to any Variation.
- 1.3. Until such time as a change to this Agreement is made in accordance with the Variation Procedure set out in this Schedule 11, the Council and the Provider shall, unless otherwise agreed in writing, continue to supply the Services specified in this Agreement as if the request or recommendation had not been made.
- 1.4. Any discussions which may take place between the Council and the Provider in connection with a request or recommendation before the authorisation of a resultant change to this Agreement shall be without prejudice to the rights of either Party.
- 1.5. Any work undertaken by the Provider, its Sub-Contractors or agents which has not been authorised in advance by a change to this Agreement and which has not been otherwise agreed in accordance with the provisions of paragraph 1.3 shall be undertaken entirely at the expense and liability of the Provider.

2. Procedures

- 2.1. Discussion between the Council and the Provider concerning a variation or change to this Agreement shall result in any one of the following:
 - 2.1.1. no further action being taken;
 - 2.1.2. a request to change this Agreement by the Council, or
 - 2.1.3. a recommendation to change this Agreement by the Provider.
- 2.2. Where either Party proposes a Variation to this Agreement, the Council will provide the Provider with a draft Change Note (using the template in Appendix 1 Schedule 11). The Provider shall respond to the Council with any requested changes or to confirm its acceptance of the draft Change Note within ten (10) Working Days (or such other period as mutually agreed by the Parties) of the date of receipt of the draft Change Note from the Council.

2.3. Each Change Note shall contain the following:

- a) the change request title;
- b) date of the change request;
- c) date the change proposal is created;
- d) name of the Party requesting or recommending the change;
- e) change owner (Council or Provider) responsible for implementing the change;
- f) the reason for the change;
- g) details of the change (including any specifications);
- h) a timetable for implementation together with any proposals for acceptance of the change;
- i) details of any assumptions, risks and dependencies;
- j) details of any likely impact, if any, of the change on the Services and any other aspects of this Agreement;
- k) any additions or amendments required to any necessary Consents;
- l) estimated costs to the Parties and schedule of payments if applicable;
- m) details of any staff, documentation, training to be provided if applicable;
- n) contractual changes required;
- o) if applicable, details of how costs incurred by the Parties if the change subsequently results in the termination of this Agreement will be apportioned;
- p) if applicable, whether the Provider will be able to oblige its Sub-Contractors to minimise any increase in costs and maximise any reduction in costs (including, where practicable, the use of competitive quotes).
- q) change proposal approval;
- r) provision for signature by the Council and by the Provider.

2.4. For each Change Note agreed by the Parties, the Council will, within twenty (20) Working Days of the date upon which the Change Note was agreed (or such other period as mutually agreed by the Parties):

2.4.1. allocate a sequential number to the Change Note; and

2.4.2. provide the Provider with an electronic copy of the Change Note to be signed by or on behalf of the Provider and upon the receipt of the signed Change Note the Council will arrange for two copies of the Change Note to be signed on behalf of the Council and return on of the copies to the Provider.

2.5. A Change Note signed by duly authorised senior representatives of the Council and the Provider shall constitute a Variation to this Agreement.

- 2.6. Unless the Change Note expressly provides for an increase in payment, the Agreement Price shall not be increased as a result of a Variation.
- 2.7. Where the Change Note requires an amendment to the Agreement Price, this shall be calculated and charged in accordance with the principles and rates set out in Schedule 2 (*Payment and Invoicing*) as applicable. The Provider may only be entitled to increase the Agreement Price if it can demonstrate in the impact assessment that the proposed Variation requires additional resources and, in any event, any change to the Agreement Price resulting from a Variation (whether the change will cause an increase or a decrease in the Agreement Price) will be strictly proportionate to the increase or decrease in the level of resources required for the provision of the Services as amended by the Change Note.
- 2.8. Except as expressly provided in this Agreement, each Party shall pay its own costs incurred in connection with the negotiation, preparation, and execution of the Change Note and any documents referred to in it.
- 2.9. Both Parties' costs incurred in respect of any use of this Variation Procedure as a result of any error or Default by the Provider shall be paid for by the Provider.
- 2.10. For any communication to be valid under this Schedule 3, it must be sent to either the Council's Contract Manager or the Provider's Manager as applicable. The provisions of clause -56 (*Notices*) shall apply to a Change Note as if it were a notice.

Appendix 1 – Change Note

CN No:

Agreement:

**Effective date of
Variation:**

Initiated by:

Variation requested by [Provider **OR** Council]

Date of request:

Period of validity:

This Change Note is valid for acceptance until [DATE]

Reason for Variation:

Description and impact of Variation (including to delivery and performance):

Required amendments to wording of Agreement or Schedules:

Adjustment to Agreement Price resulting from Variation:

Additional one-off charges and means of determining these (e.g. fixed price basis):

Supporting or additional information:

**Signed for and on behalf of the
Council**

Signature:

Name:

Position:

Date:

**Signed for and on behalf of the
Provider:**

Signature:

Name:

Position:

Date: