

Dated

2025

(1) The United Kingdom Sports Council (UK Sport)

(2) Party 2

Contract for the provision of health assessment services

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Date:

Parties

- (1) The United Kingdom Sports Council (otherwise known as UK Sport) whose main address is 6th Floor, 10 South Colonnade, London, E14 4PU (registered as a Royal Charter Company with registration number RC000765) (**Authority**).
- (2) [FULL COMPANY NAME] incorporated and registered in [England and Wales] with company number [NUMBER] whose registered office is at [REGISTERED OFFICE ADDRESS] (**Supplier**).

Background

- A On [DATE], the Authority advertised on the UK digital platform (reference [FIND A TENDER NUMBER]), inviting prospective suppliers to submit proposals for the provision of health assessment services.
- B On the basis of the Supplier's response to the advertisement and subsequent tender process, the Authority selected the Supplier to provide the services and the Supplier is willing and able to provide such services in accordance with the terms of this Agreement.
- C Accordingly, the parties have agreed to enter into a contract for the provision of the Services (as defined below) on the terms and conditions of this Agreement.

Agreed terms

1 Definitions and Interpretation

The following definitions and rules of interpretation apply in this Agreement.

1.1 Definitions

Achieved KPIs	in respect of any Service in any measurement period, the standard of performance actually achieved by the Supplier 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 is calculated and expressed in Schedule 2).
Authorised Representatives	the persons respectively designated as such by the Authority and the Supplier, the first such persons being set out in Schedule 5.
Best Industry Practice	the standards which fall within the upper quartile in the relevant industry for the provision of comparable services which are substantially similar to the Services or the relevant part of them, having regard to factors such as the nature and size of the parties, the KPIs, the Term, the pricing structure and any other relevant factors.
Catastrophic Failure	means any action by the Supplier, whether in relation to the Services and this Agreement or otherwise, which in the reasonable opinion of the Authority's Authorised Representative

has or may cause significant harm to the reputation of the Authority;

Change	any change to this Agreement including to any of the Services.
Change in Law	any change in any Law which impacts on the performance of the Services and which comes into force after the Commencement Date.
Charges	the charges which shall become due and payable by the Authority to the Supplier in respect of the Services in accordance with the provisions of this Agreement, as such charges are set out in Schedule 4.
Commencement Date	the date of this Agreement.
Commercially Sensitive Information	the information listed in Schedule 7 comprising the information of a commercially sensitive nature relating to the pricing of the Services, the Supplier's intellectual property rights or the Supplier's business operations which the Supplier has indicated to the Authority that, if disclosed by the Authority, would cause the Supplier significant commercial disadvantage or material financial loss.
Confidential Information	means all confidential information (however recorded or preserved) disclosed by a party or its Representatives to the other party and that party's Representatives in connection with this Agreement, including but not limited to: (a) any information that would be regarded as confidential by a reasonable business person relating to: (i) the business, affairs, customers, suppliers or plans of the disclosing party; and (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party; (b) any information developed by the parties in the course of carrying out this Agreement; (c) any Commercially Sensitive Information.
Consistent Failure	shall have the meaning given in Part 2 of Schedule 2.
Consumer Prices Index	the Consumer Prices Index as published by the Office for National Statistics from time to time, or failing such publication, such other index as the parties may agree most closely resembles such index.
Contracts Finder	the UK government's publishing portal for public sector procurement opportunities.

Contract Year	a 12-month period starting on the Commencement Date and on each anniversary of the Commencement Date.
Controller	as defined in the Data Protection Legislation.
Data Protection Legislation	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (<i>SI 2003/2426</i>) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party.
Data Subject	as defined in the Data Protection Legislation.
Dispute Resolution Procedure	the procedure set out in clause 17.
Domestic law	the law of the United Kingdom or part of the United Kingdom.
EIRs	the Environmental Information Regulations 2004 (<i>SI 2004/3391</i>) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
Exit Management Plan	the plan set out in Schedule 6.
FOIA	the Freedom of Information Act 2000 together with any guidance or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
Force Majeure	any circumstance not within a party's reasonable control including: (a) acts of God, flood, drought, earthquake or other natural disaster; (b) epidemic or pandemic; (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 action taken by a government or public authority, including imposing an export or import restriction, quota or prohibition; (f) collapse of buildings, fire, explosion or accident; and

- (g) any labour or trade disputes, strikes, industrial action or lockouts (other than by the staff of the party seeking to rely on the Force Majeure or those of its subcontractors)].

Health and Safety Policy the health and safety policy of the Authority being one of the Mandatory Policies.

General Change in Law a Change in Law where the change is of a general legislative nature, or which generally affects or relates to the supply of services which are the same as, or similar to, the Services.

Information has, for the purposes of clause 22, the meaning given under section 84 of FOIA.

Insolvency Event where:

- (a) the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;
- (b) the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of that other party;
- (c) the Supplier applies to court for, or obtains, a moratorium under Part A1 of the Insolvency Act 1986;
- (d) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company, limited liability partnership or partnership) other than for the sole purpose of a scheme for a solvent amalgamation of that other party with one or more other companies or the solvent reconstruction of that other party;
- (e) an application is made to court, or an order is made, for the appointment of an administrator, or a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Supplier (being a company, partnership or limited liability partnership);
- (f) the holder of a qualifying floating charge over the assets of the Supplier (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver;

- (g) a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- (h) a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the assets and such attachment or process is not discharged within 14 days;
- (i) any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (h) (inclusive);
- (j) the Supplier suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

**Intellectual
Property Rights**

patents, utility models, rights to inventions, copyright and related rights, moral rights, trade marks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off or unfair competition, rights in designs, rights in computer software, database rights, and all other intellectual property rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.

KPIs

the key performance indicators for all and each part of the Services as specified in Schedule 2.

Key Personnel

those personnel identified Schedule 5 for the roles attributed to such personnel, as modified pursuant to clause 11.

Law

the laws of England and Wales and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services or with which the Supplier is bound to comply.

**Necessary
Consents**

all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents (whether statutory, regulatory, contractual or otherwise) necessary from time to time for the provision of the Services.

Personal Data

as defined in the Data Protection Legislation.

Processor

as defined in the Data Protection Legislation.

Prohibited Act

the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage as an inducement or reward for any 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 2010; (ii) under legislation or common law concerning fraudulent acts; or (iii) of defrauding, attempting to defraud or conspiring to defraud the Authority;
- (d) any activity, practice or conduct which would constitute one of the offences listed under c) above, if such activity, practice or conduct had been carried out in the UK.

Regulated Activity	in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.
Regulated Activity Provider	shall have the same meaning as set out in section 6 of the Safeguarding Vulnerable Groups Act 2006.
Relevant Requirements	all applicable law relating to bribery, corruption and fraud, including the Bribery Act 2010 and any guidance issued by the Secretary of State for Justice pursuant to section 9 of the Bribery Act 2010.
Relevant Transfer	a relevant transfer for the purposes of TUPE.
Remediation Notice	a written notice given by the Authority to the Supplier pursuant to clause 27 to initiate the Remediation Plan Process.
Remediation Plan	the plan agreed in accordance with clause 27 for the resolution of a Supplier's default in complying with its obligations under this Agreement.
Remediation Plan Process	the process for resolving certain of the Supplier's defaults as set out in clause 27.
Replacement Services	any services that are identical or substantially similar to any of the Services and which the Authority receives in substitution for any of the Services following the termination or expiry of this Agreement, whether those services are provided by the Authority internally or by any Replacement Supplier.
Replacement Supplier	any third party supplier of Replacement Services appointed by the Authority from time to time.

Representatives	means, in relation to party, its employees, officers, contractors, Sub-Contractors, representatives and advisors.
Request Information	for a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIRs.
Services	the services to be delivered by or on behalf of the Supplier under this Agreement, as more particularly described in Schedule 1.
Service Failure	a shortfall or failure by the Supplier to deliver any part of the Services in accordance with any Target KPI.
Supplier Personnel	all employees, staff, other workers, agents and consultants of the Supplier and of any Sub-Contractors who are engaged in the provision of the Services from time to time.
Supplier's Tender	the tender submitted by the Supplier and other associated documentation set out in Schedule 3.
Sustainability report	the report to be submitted to the Authority by the Supplier in accordance with clause Error! Reference source not found..
Sub-Contract	any contract or agreement (or proposed contract or agreement) between the Supplier and a third party pursuant to which the Supplier agrees to source the provision of any of the Services from that third party.
Sub-Contractor	a person with whom the Supplier enters into a Sub-Contract.
Target KPI	the minimum level of performance for a KPI which is required by the Authority as set out against the relevant KPI in Schedule 2.
Term	the period of the Initial Term as may be varied by: the earlier termination of this Agreement in accordance with its terms.
Termination Date	the date of expiry or termination of this Agreement.
Termination Notice	any notice to terminate this Agreement which is given by either party in accordance with clause 28 or clause 29.
Termination Payment Default	is defined in Schedule 4.
TUPE	the Transfer of Undertakings (Protection of Employment) Regulations 2006 (<i>SI 2006/246</i>).
UK GDPR	has the meaning given in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
Working Day	Monday to Friday, excluding any public holidays in England and Wales.

Working Hours the period from 9.00am to 5.00pm on any Working Day.

- 1.2 Clause, schedule and paragraph headings shall not affect the interpretation of this
- 1.3 A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).
- 1.4 The schedules form part of this Agreement and shall have effect as if set out in full in the body of this Agreement and any reference to this Agreement includes the schedules.
- 1.5 A reference to a **company** includes any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.
- 1.7 Unless the context otherwise requires, a reference to one gender includes a reference to the other genders.
- 1.8 Unless expressly provided otherwise in this Agreement, a reference to legislation or a legislative provision is a reference to it as amended, extended or re-enacted and includes all subordinate legislation made under it, in each case from time to time.
- 1.9 A reference to **writing** or **written** excludes fax and e-mail.
- 1.10 Any obligation in this Agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 A reference to this Agreement or to any other agreement or document is a reference to this Agreement or such other agreement or document as varied from time to time.
- 1.12 References to clauses and schedules are to the clauses and schedules of this Agreement and references to paragraphs are to paragraphs of the relevant schedule.
- 1.13 Any words following 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.
- 1.14 If there is any conflict or ambiguity between any of the provisions in the main body of this Agreement and the schedules, such conflict or inconsistency shall be resolved according to the following order of priority:
 - 1.14.1 the clauses of the agreement;
 - 1.14.2 Schedule 1 to this Agreement;
 - 1.14.3 the remaining schedules to this Agreement other than Schedule 3;
 - 1.14.4 Schedule 3 to this Agreement.

Where there is any conflict or inconsistency between the provisions of this Agreement and the requirements of a Necessary Consent, then the latter shall

prevail, provided that the Supplier has made all reasonable attempts to obtain a Necessary Consent in line with the requirements of the Services and the Supplier has notified the Authority in writing.

Commencement and duration

2 Commencement and duration

This Agreement commences on the Commencement Date and continues for the Term.

3 Due diligence and Supplier's warranty

3.1 The Supplier acknowledges and confirms that:

3.1.1 the Authority has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Agreement;

3.1.2 it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied or made available to it by or on behalf of the Authority pursuant to clause 3.1.1;

3.1.3 it has satisfied itself (whether by inspection or having raised all relevant due diligence questions with the Authority before the Commencement Date) of all relevant details relating to the performance of its obligations under this Agreement (including without limitation the suitability of Authority Premises); and

3.1.4 it has entered into this Agreement in reliance on its own due diligence.

3.2 No representations, warranties or conditions are given or assumed by the Authority in respect of any information which is provided to the Supplier by the Authority and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

3.3 The Supplier:

3.3.1 warrants and represents that all information and statements made by the Supplier as a part of the procurement process, including without limitation the Supplier'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 Authority prior to execution of the agreement; and

3.3.2 shall promptly notify the Authority in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information provided to it by the Authority during such due diligence which materially and adversely affects its ability to perform the Services or meet any Target KPIs.

3.4 The Supplier shall not be entitled to recover any additional costs or charges from the Authority arising as a result of, nor be relieved from any of its obligations under this Agreement on the ground of, any matters or inaccuracies notified to the Authority by the Supplier in accordance with clause 3.3.2, save where such additional costs or adverse effect on performance have been caused by the

Supplier having been provided with fundamentally misleading information by or on behalf of the Authority and the Supplier could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, the Supplier may recover such reasonable additional costs from the Authority or shall be relieved from performance of certain obligations as shall be determined by the Change Control Procedure.

The services

4 Supply of services

- 4.1 The Supplier shall provide the Services to the Authority with effect from the Commencement Date for the duration of the Term in accordance with the provisions of this Agreement, including without limitation Schedule 1 and Schedule 2.
- 4.2 In providing the Services, the Supplier shall at all times:
 - 4.2.1 without prejudice to clause 5, provide the Services with reasonable care and skill and in accordance with Best Industry Practice;
 - 4.2.2 ensure that all goods, materials, standards and techniques used in providing the Services are of the best quality and are free from defects in workmanship, installation and design;
 - 4.2.3 obtain, maintain and comply with all Necessary Consents at its own cost (unless otherwise agreed in writing with the Authority).
 - 4.2.4 allocate sufficient resources to provide the Services in accordance with the terms of this Agreement;
 - 4.2.5 ensure that any of the Supplier's Personnel who are engaged in the provision of any of the Services shall, if required by the Authority, attend such meetings at the premises of the Authority or elsewhere as may be reasonably required by the Authority; and
 - 4.2.6 provide such reasonable co-operation and information in relation to the Services to such of the Authority's other suppliers as the Authority may reasonably require for the purposes of enabling any such person to create and maintain any interfaces reasonably required by the Authority.

5 KPIs

- 5.1 Where any Service is stated in Schedule 2 to be subject to a specific KPI, the Supplier shall provide that Service in such a manner as will ensure that the Achieved KPI in respect of that Service is equal to or higher than the corresponding Target KPI to such specific KPI.
- 5.2 If the existing Services are varied or new Services are added, Target KPIs for the same will be determined by the parties and included within Schedule 2.
- 5.3 The Supplier shall provide monthly reports summarising the Achieved KPIs as provided for in clause 15.

6 Compliance and change in laws

6.1 In performing its obligations under this Agreement, the Supplier shall at all times comply with:

6.1.1 all applicable Law;

6.1.2 all its own policies that ensure compliance with applicable Law, best practice, and statutory guidance, including as a minimum anti-money laundering, fraud, equalities, health and safety, and sustainability.

The Supplier shall maintain such records as are necessary pursuant to the Laws and shall promptly on request make all policies and records available for inspection by any relevant authority that is entitled to inspect them and by the Authority (or its authorised representative).

6.2 Without limiting the generality of the obligation under clause 6.1, the Supplier shall (and shall procure that the Supplier Personnel shall) perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

6.2.1 all applicable Law regarding health and safety;

6.3 Without limiting the general obligation set out in clause 6.1, the Supplier shall (and shall procure that the Supplier Personnel shall):

6.3.1 perform its obligations under this Agreement (including those in relation to the Services) in accordance with:

(a) all applicable equality law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);

(b) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality Law;

6.3.2 take all necessary steps, and inform the Authority of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or any successor organisation.

6.4 The Supplier shall monitor and shall keep the Authority informed in writing of any changes in the Law which may impact the Services and shall provide the Authority with timely details of measures it proposes to take and changes it proposes to make to comply with any such changes. The Supplier shall only implement such changes in accordance with the Change Control Procedure.

6.5 The Supplier shall neither be relieved of its obligations to supply the Services in accordance with the terms of this Agreement nor be entitled to an increase in the Charges as the result of a General Change in Law.

7 Supplier environmental obligations

7.1 The Supplier shall comply with all applicable environmental laws, regulations and statutory guidance in performing its obligations under this Agreement.

- 7.2 The Supplier shall provide to the Authority such reports, information and updates regarding its environmental compliance and performance as the Authority may reasonably require from time to time.
- 7.3 The Authority may audit the Supplier's compliance with this clause 7 in accordance with clause 25.

8 Use of Authority Premises and Assets

- 8.1 The Supplier is not entitled to use the Authority's premises or assets in the delivery of the Services.

9 Charges, invoicing and payment

- 9.1 The Authority shall pay the Charges to the Supplier in accordance with Schedule 4.
- 9.2 The Charges:
- 9.2.1 shall remain fixed during the Term; and
 - 9.2.2 are the entire price payable by the Authority to the Supplier in respect of the Services and include, without limitation, any royalties, consents, licence fees, supplies and all consumables used by the Supplier, travel costs, accommodation expenses and the cost of Supplier Personnel.
- 9.3 Except as otherwise provided in this Agreement, the parties shall each bear their own costs and expenses incurred in respect of compliance with their obligations under this Agreement.
- 9.4 The Supplier shall invoice the Authority for payment of the Charges at the time the Charges are expressed to be payable in accordance with Schedule 4. All invoices shall:
- 9.4.1 be directed to the Authority's Authorised Representative and finance@uksport.gov.uk;
 - 9.4.2 unless an electronic invoice pursuant to clause 9.5, contain such information as the Authority may inform the Supplier from time to time
- 9.5 The Authority shall accept and process for payment any electronic invoice submitted by the Supplier provided that it is undisputed and in a form that complies with the standard for electronic invoicing (and uses any related syntaxes) approved and issued by the British Standards Institution from time to time .
- 9.6 Where the Supplier submits an invoice to the Authority in accordance with clause 9.4, the Authority shall:
- 9.6.1 consider and verify the invoice without undue delay;
 - 9.6.2 notify the Supplier promptly if it disputes the invoice or does not consider it to be valid within the meaning of clause 9.6;
 - 9.6.3 where the invoice is valid and to the extent that it is not disputed, pay the Supplier any Charges due under the invoice within 30 days of:

- (a) the date on which the invoice is regarded as valid and undisputed by the Authority; or, if later
 - (b) the due date as stated on the invoice.
- 9.7 For the purposes of clause 9.6:
 - 9.7.1 an invoice is valid if either:
 - (a) it is an electronic invoice in the form required by clause 9.5; or
 - (b) it contains the information required under clause 9.4.2, which includes the name of the invoicing party, a description of the services supplied, the Charges requested and a unique identification number;
 - 9.7.2 an invoice from the Supplier shall be regarded by the Authority as not disputed where the Authority fails to verify it without undue delay and in any event within 14 days of receipt from the Supplier.
- 9.8 Where the Supplier enters into a Sub-Contract, the Supplier shall include in that Sub-Contract:
 - 9.8.1 provisions having the same effect as clause 9.6, clause (b) and clause 9.7.2 of this Agreement; and
 - 9.8.2 a provision requiring the counterparty to that Sub-Contract to include in any subcontract which it awards provisions having the same effect as clause 9.6, clause (b), clause 9.7.2 and clause 9.8 of this Agreement.
- 9.9 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 determined in accordance with clause 17. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until 30 days after resolution of the dispute between the parties.
- 9.10 Subject to clause 9.9, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this Agreement in accordance with clause 10. The Supplier shall not suspend the supply of the Services if any payment is overdue unless it is entitled to terminate this Agreement under clause 28.3 for failure to pay undisputed charges.
- 9.11 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice. The Supplier shall indemnify the Authority against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Authority at any time in respect of the Supplier's failure to account for, or to pay, any VAT relating to payments made to the Supplier under this Agreement.
- 9.12 The Supplier shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Authority pursuant to this Agreement. Such records shall be retained for inspection by the Authority for 6 years from the end of the Contract Year to which the records relate.

- 9.13 The Authority may at any time, set off any liability of the Supplier to the Authority against any liability of the Authority to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under this Agreement. Any exercise by the Authority of its rights under this clause shall not limit or affect any other rights or remedies available to it under this Agreement or otherwise.

10 Interest

- 10.1 Each party shall pay interest on any sum due under this Agreement, calculated as follows:
- 10.1.1 Rate. 2% a year above the Bank of England's base rate from time to time, but at 4% a year for any period when that base rate is below 0%.
- 10.1.2 Period. From when the overdue sum became due, until it is paid.

Staff

11 Key personnel

- 11.1 Each party shall appoint the persons named as such in Schedule 5 as the individuals who shall be responsible for the matters allocated to such Key Personnel. The Key Personnel shall be those people who are identified by each party as being key to the success of the implementation and/or operation of the Services and who shall be retained on the implementation and/or operation of the Services for such time as a person is required to perform the role which has been allocated to the applicable Key Personnel. The Key Personnel shall have the authority to act on behalf of their respective party on the matters for which they are expressed to be responsible.
- 11.2 The Supplier shall not remove or replace any of the Key Personnel unless:
- 11.2.1 required to do so by the Authority in accordance with clause 12.2 or clause 12.3;
- 11.2.2 the person is on long-term sick leave;
- 11.2.3 the element of the Services in respect of which the individual was engaged has been completed to the Authority's satisfaction;
- 11.2.4 the person resigns from their employment with the Supplier; or
- 11.2.5 the Supplier obtains the prior written consent of the Authority.
- 11.3 Each party shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than 15 Working Days. Any replacement shall be as, or more, qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced. A temporary replacement shall be identified with immediate effect from the Supplier or the Authority becoming aware of the role becoming vacant.
- 11.4 If the Supplier replaces the Key Personnel as a consequence of this clause 11, the cost of effecting such replacement shall be borne by the Supplier.

12 Supplier Personnel

- 12.1 At all times, the Supplier shall ensure that:
 - 12.1.1 each of the Supplier Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
 - 12.1.2 there is an adequate number of Supplier Personnel to provide the Services properly;
 - 12.1.3 only those people who are authorised by the Supplier (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and
 - 12.1.4 all of the Supplier Personnel comply with the Mandatory Policies.
- 12.2 The Authority may refuse to grant access to, and remove, any of the Supplier Personnel who do not comply with any of the Mandatory Policies, or if they otherwise present a security threat.
- 12.3 The Supplier shall replace any of the Supplier Personnel whom the Authority reasonably decides have failed to carry out their duties with reasonable skill and care. Following the removal of any of the Supplier Personnel for any reason, the Supplier shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.
- 12.4 The Supplier shall maintain up-to-date personnel records on the Supplier Personnel engaged in the provision of the Services and shall provide information to the Authority as the Authority reasonably requests on the Supplier Personnel. The Supplier shall ensure that the Supplier Personnel cannot be individually identified from the information so provided.
- 12.5 The Supplier shall use its reasonable endeavours to ensure continuity of personnel and to ensure that the turnover rate of its staff engaged in the provision or management of the Services is at least as good at the prevailing industry norm for similar services, locations and environments.

13 Safeguarding children and vulnerable adults

- 13.1 The parties acknowledge that the Supplier is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Agreement and for the purposes of the Safeguarding Vulnerable Groups Act 2006.
- 13.2 The Supplier shall:
 - 13.2.1 ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS);
 - 13.2.2 monitor the level and validity of the checks under this clause 13.2 for each member of staff; and

- 13.2.3 not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out Regulated Activity or who may otherwise present a risk to service users.
- 13.3 The Supplier warrants that at all times for the purposes of this Agreement it has no reason to believe that any person who is or will be employed or engaged by the Supplier in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder.
- 13.4 The Supplier shall immediately notify the Authority of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 13 have been met.
- 13.5 The Supplier shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to vulnerable adults.

14 TUPE

The parties agree that the provisions of Schedule 6 shall apply to any Relevant Transfer of staff under this Agreement.

Contract management

15 Review and monitoring

- 15.1 Each party shall nominate an Authorised Representative who will have authority to act on its behalf and contractually bind it in respect of all matters relating to the performance of this Agreement. The first Authorised Representatives are listed in Schedule 5. The Authorised Representatives will co-ordinate and manage the provision of the Services and work with each other to address any problems that arise in connection with the Services (including by signing Change Control Notes).
- 15.2 Each party shall use all reasonable endeavours to ensure that the same person acts as its Authorised Representative throughout the Term, but may, following reasonable notice to the other party, replace that person from time to time where reasonably necessary in the interests of its business.
- 15.3 The Authorised Representatives shall meet regularly, as agreed between the Parties, to monitor and review the performance of this Agreement, including the achievement of the Target KPIs. Such meetings shall be minuted by the Authority's Authorised Representative and copies of those minutes shall be circulated to and approved by both parties.
- 15.4 Without prejudice to any other reports required under this Agreement, in advance of each meeting to be held in accordance with clause 15.3:
 - 15.4.1 the Supplier shall provide the Authority with a monthly written report detailing its performance against each of the KPIs and identifying any issues regarding the performance of the agreement for discussion at the meeting; and

- 15.4.2 the Authority shall notify the Supplier of any concerns it has regarding the performance of the agreement for discussion at the meeting.
- 15.5 At the meeting, the parties shall agree a plan to address any problems identified in the performance of the agreement. In the event of any problem being unresolved, or a failure to agree on the plan, the procedures set out in clause 27 shall apply. Progress in implementing the plan shall be included in the agenda for the next monthly meeting.
- 15.6 A review meeting to assess the Supplier's performance of its obligations under this Agreement shall be held at six-monthly intervals throughout the Term. Each meeting shall be attended by senior representatives of each party, together with the Authorised Representatives.
- 15.7 The Authority may increase the extent to which it monitors the performance of the Services if the Supplier fails to meet the Target KPIs or fails to fulfil its other obligations under this Agreement. The Authority shall give the Supplier prior notification of its intention to increase the level of its monitoring. The Supplier shall bear its own costs in complying with such enhanced monitoring as is conducted by the Authority pursuant to this clause 15.7.
- 15.8 The Supplier shall submit any other management reports to the Authority in the form and at the interval specified in Schedule 5, or as specified elsewhere in this Agreement.

16 Change control, and continuous improvement

- 16.1 Any requirement for a Change shall be subject to the provisions of this clause 16.
- 16.2 Where the Authority or the Supplier sees a need to change this Agreement, the Authority may at any time request, and the Supplier may at any time recommend, such Change, such Change to be submitted to the other Party in writing.
- 16.3 Until such time as a Change is made, the Authority and the Supplier shall, unless otherwise agreed in writing, continue to perform this Agreement in compliance with its terms before such Change.
- 16.4 Any discussions which may take place between the Authority and the Supplier in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 16.5 Any work undertaken by the Supplier and the Supplier Personnel which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this clause 16, shall be undertaken entirely at the expense and liability of the Supplier.
- 16.6 The Party in receipt of the request for a Change will respond to the other Party within 10 Working Days of receipt. The Parties will use reasonable endeavours to agree the Change within 20 Working Days of the submission of the request for a Change.
- 16.7 Any Change will be documented in writing and signed by both Parties, before which time the Change will not be implemented.

- 16.8 The Supplier shall throughout the Term seek ways to derive efficiencies with respect to delivery of the Services, and use all reasonable endeavours to ensure that the Authority receives the benefit of any such efficiencies.
- 16.9 Where the Supplier identifies a potential efficiency:
- 16.9.1 it shall promptly inform the Authority and shall advise the Authority whether, in the Supplier's professional opinion, the implementation of any change necessary to enable the Authority to enjoy that benefit is desirable (in view of quality, reliability and other relevant factors as well as price); and
 - 16.9.2 if the Authority concludes that the implementation of the necessary change is desirable, the Supplier shall implement the change.
- 16.10 Where the achievement of the benefit by the Authority would necessitate the making of a Change Control Note, the Change Control Procedure shall apply but the Supplier shall not be entitled to object to the proposed change. Any benefits arising from any such change as is referred to in this clause 16 (including any consequent reductions in the Charges) shall accrue solely to the Authority.

17 **Dispute resolution**

- 17.1 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:
- 17.1.1 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 Authorised Representatives shall attempt in good faith to resolve the Dispute;
 - 17.1.2 if the Authorised Representatives are for any reason unable to resolve the Dispute within 30 Working Days of service of the Dispute Notice, the Dispute shall be referred to the Authority's [SENIOR OFFICER TITLE] and the Supplier's [SENIOR OFFICER TITLE] who shall attempt in good faith to resolve it;
 - 17.1.3 if the Authority's [SENIOR OFFICER TITLE] and the Supplier's [SENIOR OFFICER TITLE] are for any reason unable to resolve the Dispute within 30 Working 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 within 30 Working Days of referral of the Dispute Notice, the mediator will be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR notice**) to the other party to the Dispute, referring the dispute to mediation. A copy of the ADR notice should be sent to CEDR;
 - 17.1.4 Unless otherwise agreed between the parties, the mediation will start not later than 5 Working Days after the date of the ADR notice.
- 17.2 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings.

- 17.3 If for any reason the Dispute is not resolved within 20 Working Days of commencement of the mediation, the Dispute shall be referred to and finally resolved by the courts of England and Wales in accordance with clause 45.

18 Sub-Contracting

- 18.1 Notwithstanding clause 39, the Supplier can only enter into subcontracting arrangements in with the written consent of the Authority, not to be unreasonably withheld.
- 18.2 In the event that the Supplier enters into any Sub-Contract in connection with this Agreement it shall:
- 18.2.1 remain responsible for all acts and omissions of its Sub-Contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own;
 - 18.2.2 impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to this Agreement and procure that the Sub-Contractor complies with such terms; and
 - 18.2.3 provide a copy, at no charge to the Authority, of any such Sub-Contract on receipt of a request for such by the Authority's Authorised Representative.
- 18.3 The Authority may require the Supplier to terminate a Sub-Contract where the acts or omission of the relevant Sub-Contractor have given rise to the Authority's right to terminate pursuant to clause 28.1 or if there is a change of control of a Sub-Contractor (within the meaning of section 1124 of the Corporation Tax Act 2010) or the Sub-Contractor suffers an Insolvency Event.

19 Indemnities

- 19.1 Subject to clause 19.2, the Supplier shall indemnify and keep indemnified the Authority against all liabilities, costs, expenses, damages and losses incurred by the Authority arising out of or in connection with:
- 19.1.1 the Supplier's breach or negligent performance or non-performance of this Agreement;
 - 19.1.2 any claim made against the Authority 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 Supplier or Supplier Personnel;
 - 19.1.3 the enforcement of this Agreement.
- 19.2 The indemnity under clause 19.1 shall apply except insofar as the liabilities, costs, expenses, damages and losses incurred by the Authority are directly caused (or directly arise) from the negligence or breach of this Agreement by the Authority.

20 Limitation of liability

- 20.1 The Supplier has obtained insurance cover in respect of certain aspects of its own legal liability for individual claims not exceeding £3,000,000 (three million pounds

sterling) per claim. The limits and exclusions in this clause reflect the insurance cover the Supplier has been able to arrange and the Authority is responsible for making its own arrangements for the insurance of any excess liability.

- 20.2 References to liability in this clause 20 include every kind of liability arising under or in connection with this Agreement including but not limited to liability in contract, tort (including negligence), misrepresentation, restitution or otherwise.
- 20.3 Nothing in this clause 20 shall limit the Authority's payment obligations under this Agreement.
- 20.4 Nothing in this clause 20 shall limit any liability under:
 - 20.4.1 Clause 26 (*IPR indemnity*)
 - 20.4.2 the indemnities in Schedule 6 (*TUPE*)
 - 20.4.3 breach of clause 31 (*Bribery*)
 - 20.4.4 breach of clause 23 (Data Processing)
- 20.5 Nothing in this Agreement limits any liability for:
 - 20.5.1 death or personal injury caused by negligence;
 - 20.5.2 fraud or fraudulent misrepresentation;
 - 20.5.3 breach of the terms implied by section 2 of the Supply of Goods and Services Act 1982 (title and quiet possession); and
 - 20.5.4 any liability that cannot legally be limited.
- 20.6 Subject to clause 20.1, clause 20.4 and clause 20.5, the Supplier's total aggregate liability to the Authority:
 - 20.6.1 in respect of all other claims, losses or damages arising in each Contract Year, shall not exceed the cap.
- 20.7 In clause 20.6.1:
 - 20.7.1 The cap is £5,000,000 (five million pounds sterling) in the Contract Year in which the breaches occurred; and
 - 20.7.2 The total charges mean the sum of the Charges paid by the Authority and all Charges payable under this Agreement in respect of Services actually supplied by the Supplier, whether or not invoiced by the Authority.
- 20.8 Subject to clause 20.3, clause 20.4 and clause 20.5, the Authority's total aggregate liability in respect of all claims, (other than a failure to pay any of the Charges that are properly due and payable and for which the Authority shall remain fully liable), losses or damages arising in each Contract Year shall not exceed the cap.
- 20.9 In clause 20.8:

- 20.9.1 The cap is 150% (one hundred and fifty per cent) of the total charges in the Contract Year in which the breaches occurred.
- 20.9.2 The total charges mean the sum of the Charges paid by the Authority and all Charges payable under this Agreement in respect of Services actually supplied by the Supplier, whether or not invoiced by the Authority.
- 20.10 Subject to clause 20.1, clause 20.3, clause 20.4 and clause 20.5, clause 20.10.2 identifies the kinds of loss that are not excluded. Subject to that, clause 20.10.1 excludes specified types of loss.
- 20.10.1 Types of loss wholly excluded:
- (a) Loss of profits.
 - (b) Loss of sales or business.
 - (c) Loss of agreements or contracts.
 - (d) Loss of anticipated savings.
 - (e) Loss of use or corruption of software, data or information.
 - (f) Loss of or damage to goodwill.
 - (g) Indirect or consequential loss.
- 20.10.2 Types of loss and specific losses not excluded:
- (a) Sums paid by the Authority to the Supplier pursuant to the agreement in respect of any Services not provided in accordance with the agreement.
 - (b) Wasted expenditure.
 - (c) Additional costs of procuring and implementing replacements for, or alternatives to, Services not provided in accordance with the agreement. These include consultancy costs, additional costs of management time.
 - (d) Losses incurred by the Authority arising out of or in connection with any third party claim against the Authority which has been caused by the act or omission of the Supplier. For these purposes, third party claims shall include demands, fines, penalties, actions, investigations or proceedings, including those made or commenced by Sub-Contractors, the Supplier's Personnel, regulators and customers of the Authority.
- 20.11 The Supplier has given commitments as to compliance of the Services with relevant specifications in clause 4.2 and clause 5. In view of these commitments, the terms implied by sections 3, 4 and 5 of the Supply of Goods and Services Act 1982 are, to the fullest extent permitted by law, excluded from this Agreement.

- 21.1 The Supplier shall at its own cost effect and maintain with reputable insurance companies insurance policies to cover its liabilities under this Agreement providing as a minimum the following levels of cover:
- 21.1.1 public liability insurance with a limit of indemnity of at least £5 million in relation to any one claim or series of claims;
 - 21.1.2 employer's liability insurance with a limit of at least £5 million per claim or in accordance with any legal requirement for the time being in force in relation to any one claim or series of claims;
 - 21.1.3 professional indemnity insurance with a limit of indemnity of not less than £5 million in relation to any one claim or series of claims and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover.
- (the **Required Insurances**). The cover shall be in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of the agreement, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Supplier.
- 21.2 The Supplier shall give the Authority, on request, copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 21.3 If, for whatever reason, the Supplier fails to give effect to and maintain the Required Insurances, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Supplier.
- 21.4 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the agreement.
- 21.5 The Supplier shall hold and maintain the Required Insurances for a minimum of six years following expiry or earlier termination of the agreement.

Information

22 Freedom of information

- 22.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs. The Supplier shall:
- 22.1.1 provide all necessary assistance and cooperation as reasonably requested by the Authority to enable the Authority to comply with its obligations under the FOIA and EIRs;
 - 22.1.2 transfer to the Authority all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - 22.1.3 provide the Authority with a copy of all Information belonging to the Authority requested in the Request for Information which is in its possession or control in the form that the Authority requires within 5

Working Days (or such other period as the Authority may reasonably specify) of the Authority's request for such Information; and

- 22.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Authority.
- 22.2 The Supplier acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Commercially Sensitive Information) without consulting or obtaining consent from the Supplier. The Authority shall take reasonable steps to notify the Supplier 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 Authority shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information or any other information is exempt from disclosure in accordance with the FOIA or the EIRs.
- 22.3 Notwithstanding any other term of this Agreement, the Supplier consents to the publication of this Agreement in its entirety (including variations), subject only to the redaction of information that the Authority considers is exempt from disclosure in accordance with the provisions of the FOIA and EIRs.
- 22.4 The Authority shall, prior to publication, consult with the Supplier on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion. The Supplier shall assist and co-operate with the Authority to enable the Authority to publish this Agreement.

23 Data processing

- 23.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 23 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
- 23.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. Schedule 8 sets out the scope, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 23.3 Without prejudice to the generality of clause 23.1, the Authority will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Supplier for the duration and purposes of this Agreement.
- 23.4 Without prejudice to the generality of clause 23.1, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Agreement:
 - 23.4.1 process that Personal Data only on the documented written instructions of the Authority which are set out in Schedule 8, unless the Supplier is required by Domestic Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law as the basis for processing Personal Data, the Supplier shall promptly notify the Authority of this before performing the processing required by Domestic Law unless the Domestic Law prohibits the Supplier from so notifying the Authority;

- 23.4.2 ensure that it has in place appropriate technical and organisational measures (as defined in the Data Protection Legislation), reviewed and approved by the Authority, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- 23.4.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential;
- 23.4.4 not transfer any Personal Data outside of the UK unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
- (a) the Authority or the Supplier has provided appropriate safeguards in relation to the transfer;
 - (b) the Data Subject has enforceable rights and effective remedies;
 - (c) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (d) the Supplier complies with the reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
- 23.4.5 notify the Authority immediately if it receives:
- (a) a request from a Data Subject to have access to that person's Personal Data;
 - (b) a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);
- 23.4.6 assist the Authority in responding to any request from a Data Subject and in ensuring compliance with the Authority's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;

- 23.4.7 notify the Authority without undue delay on becoming aware of a Personal Data breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this Agreement;
 - 23.4.8 at the written direction of the Authority, delete or return Personal Data and copies thereof to the Authority on termination or expiry of the agreement unless required by Domestic Law to store the Personal Data;
 - 23.4.9 maintain complete and accurate records and information to demonstrate its compliance with this clause 23 and allow for audits by the Authority or the Authority's designated auditor pursuant to clause 25 and immediately inform the Authority if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 23.5 The Supplier's liability for losses arising from breaches of this clause is as set out in clause 20.6.1.
- 23.6 Where the Supplier wishes to appoint a subprocessor to process any Personal Data relating to this Agreement, such subprocessor shall constitute a Sub-Contractor and the Supplier shall:
- 23.6.1 notify the Authority in writing of the intended processing by the Sub-Contractor;
 - 23.6.2 obtain prior written consent from the Authority;
 - 23.6.3 enter into a written agreement incorporating terms which are substantially similar to those set out in this clause 23.

24 **Confidentiality**

- 24.1 The provisions of this clause do not apply to any Confidential information which:
- 24.1.1 is or becomes available to the public (other than as a result of its disclosure by the receiving party or its Representatives in breach of this clause);
 - 24.1.2 was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
 - 24.1.3 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;
 - 24.1.4 the parties agree in writing is not confidential or may be disclosed;
 - 24.1.5 which is disclosed by the Authority on a confidential basis to any central government or regulatory body.
- 24.2 Each party shall keep the other party's Confidential Information secret and confidential and shall not:

- 24.2.1 use such Confidential Information except for the purpose of exercising or performing its rights and obligations under or in connection with this Agreement (**Permitted Purpose**); or
- 24.2.2 disclose such Confidential information in whole or in part to any third party, except as expressly permitted by this clause 24.
- 24.3 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:
 - 24.3.1 it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
 - 24.3.2 it procures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause as if they were a party to this Agreement,
 - 24.3.3 and at all times, it is liable for the failure of any Representatives to comply with the obligations set out in this clause 24.2.
- 24.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law (including under the FOIA or EIRs), by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of the disclosure as possible.
- 24.5 The provisions of this clause 24 shall survive for a period of 6 years from the Termination Date.

25 **Audit**

- 25.1 During the Term and for a period of 6 years after the Termination Date, the Supplier shall allow the Authority (acting by itself or through its Representatives) to access any of the Supplier's premises, systems, Supplier Personnel and relevant records as may reasonably be required to:
 - 25.1.1 fulfil any legally enforceable request by any regulatory body;
 - 25.1.2 verify the accuracy of Charges or identify suspected fraud;
 - 25.1.3 review the integrity, confidentiality and security of any data relating to the Authority or any service users;
 - 25.1.4 review the Supplier's compliance with the Data Protection Legislation and the FOIA, in accordance with clause 23 (Data Protection) and clause 22 (Freedom of Information), and any other legislation applicable to the Services; or
 - 25.1.5 verify that the Services are being provided and all obligations of the Supplier are being performed in accordance with this Agreement.
- 25.2 Except where an audit is imposed on the Authority by a regulatory body or where the Authority has reasonable grounds for believing that the Supplier has not

complied with its obligations under this Agreement, the Authority may not conduct an audit under this clause 25 more than twice in any calendar year.

- 25.3 The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.
- 25.4 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Authority and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
 - 25.4.1 all information requested by the above persons within the permitted scope of the audit;
 - 25.4.2 reasonable access to any sites and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services; and
 - 25.4.3 access to the Supplier Personnel.
- 25.5 The Authority shall endeavour to (but is not obliged to) provide at least 15 Working Days' notice of its intention or, where possible, a regulatory body's intention, to conduct an audit.
- 25.6 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 failure by the Supplier to perform its obligations under this Agreement in any material manner in which case the Supplier shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.
- 25.7 If an audit identifies that:
 - 25.7.1 the Supplier has failed to perform its obligations under this Agreement, the provisions of clause 27 shall apply;
 - 25.7.2 the Authority has overpaid any Charges, the Supplier shall pay to the Authority the amount overpaid within 20 days from the date of receipt of an invoice or notice to do so. The Authority may deduct the relevant amount from the Charges if the Supplier fails to make this payment; and
 - 25.7.3 the Authority has underpaid any Charges, the Authority shall pay to the Supplier the amount of the underpayment within 20 days from the date of receipt of an invoice for such amount.

26 Intellectual property

- 26.1 In the absence of prior written agreement by the Authority to the contrary, all Intellectual Property Rights created by the Supplier or Supplier Personnel:
 - 26.1.1 in the course of performing the Services; or
 - 26.1.2 exclusively for the purpose of performing the Services,shall vest in the Authority on creation.

- 26.2 The Supplier shall indemnify the Authority 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 they have been caused by or contributed to by the Authority's acts or omissions.

27 Remediation Plan Process

- 27.1 Subject to Clause 27.2, if the Supplier is in default in complying with any of its obligations under this Agreement and the default is capable of remedy, the Authority may not terminate this Agreement without first operating the Remediation Plan Process. If the Supplier commits such a default, the Authority shall give a Remediation Notice to the Supplier which shall specify the default in outline and the actions the Supplier needs to take to remedy the default.
- 27.2 The Authority shall be under no obligation to initiate the Remediation Plan Process if it issues a notice to terminate in the circumstances set out in clause 28.1.1, clause 28.1.4, clause 28.1.5, clause 28.1.6, clause 28.1.7, clause 28.1.8, and clause 28.1.9 .
- 27.3 Within 5 Working Days of receipt of a Remediation Notice, the Supplier shall:
- 27.3.1 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
 - 27.3.2 inform the Authority that it does not intend to submit a Remediation Plan, in which event the Authority shall be entitled to serve a Termination Notice.
- 27.4 The Authority shall either approve the draft Remediation Plan within 5 Working Days of its receipt pursuant to Clause 27.3.1, or it shall inform the Supplier why it cannot accept the draft Remediation Plan. In such circumstances, the Supplier shall address all such concerns in a revised Remediation Plan, which it shall submit to the Authority within 5 Working Days of its receipt of the Authority's comments. If no such notice is given, the Supplier's draft Remediation Plan shall be deemed to be agreed.
- 27.5 Once agreed, the Supplier shall immediately start work on the actions set out in the Remediation Plan.
- 27.6 If, despite the measures taken under clause 27.4, a Remediation Plan cannot be agreed within 10 Working Days then the Authority may elect to end the Remediation Plan Process and serve a Termination Notice.
- 27.7 If a Remediation Plan is agreed between the parties, but the Supplier fails to implement or successfully complete the Remediation Plan by the required completion date, the Authority may:
- 27.7.1 terminate this Agreement by serving a Termination Notice;
 - 27.7.2 give the Supplier a further opportunity to resume full implementation of the Remediation Plan; or
 - 27.7.3 refer the matter for resolution under the Dispute Resolution Procedure.

- 27.8 If, despite the measures taken under clause 27.7, the Supplier fails to implement the Remediation Plan in accordance with its terms, the Authority may elect to end the Remediation Plan Process and refer the matter for resolution by the Dispute Resolution Procedure or serve a Termination Notice.
- 27.9 The Authority shall not be obliged to follow the Remediation Plan Process if there is a repetition of substantially the same default by the Supplier as had previously been addressed in a Remediation Plan within a period of 6 months following the conclusion of such previous Remediation Plan. In such event, the Authority may serve a Termination Notice.

Termination

28 Termination

- 28.1 Without affecting any other right or remedy available to it, and subject to clause 27, the Authority may terminate this Agreement with immediate effect or on the date specified in the Termination Notice by giving written notice to the Supplier if one or more of the following circumstances occurs or exists:
- 28.1.1 if the Supplier is in material breach of this Agreement, which is irremediable;
 - 28.1.2 the parties fail to agree the Remediation Plan in accordance with the Remediation Plan Process;
 - 28.1.3 the Supplier fails to implement or successfully complete the Remediation Plan in accordance with the Remediation Plan Process;
 - 28.1.4 the circumstances referred to in clause 27.9 occur;
 - 28.1.5 a Consistent Failure has occurred;
 - 28.1.6 a Catastrophic Failure has occurred;
 - 28.1.7 if there is an Insolvency Event;
 - 28.1.8 if the Authority elects to terminate pursuant to clause 31.6;
 - 28.1.9 if there is a change of control of the Supplier within the meaning of section 1124 of the Corporation Tax Act 2010 to which the Authority reasonably objects, provided that the Authority serves its Termination Notice within 3 months of the date on which the Supplier informs the Authority (by written notice) of the change of control or on which the Authority otherwise becomes aware of the change of control.
- 28.2 Either party may, during the continuance of a Force Majeure Event, terminate this Agreement if the circumstances in clause 30.6 or clause 30.7 arise.
- 28.3 The Supplier may terminate this Agreement in the event that the Authority commits a Termination Payment Default by giving 30 days' written notice to the Authority. In the event that the Authority remedies the Termination Payment Default in the 30 day notice period, the Supplier's notice to terminate this Agreement shall be deemed to have been withdrawn.

29 **Termination on notice**

Without affecting any other right or remedy available to it, the Authority may terminate this Agreement to take effect on the 12 month anniversary of the date of this Agreement by giving 3 months' written notice to the Supplier.

30 **Force majeure**

30.1 Subject to clause 30.3, a party (**Affected Party**) shall not be liable for any failure or delay in performing any of its obligations under this Agreement for so long as, and to the extent that, its performance is prevented, hindered or delayed by a Force Majeure.

30.2 For so long as the Affected Party's liability in relation to any of its obligations is suspended under clause 30.1, the other party shall not be liable for any failure or delay in performing its corresponding obligations.

30.3 Clause 30.1 will only apply if the Affected Party:

30.3.1 as soon as reasonably practicable after the start of the Force Majeure, notifies the other party in writing of the Force Majeure, the date on which it started, its likely or potential duration, and the effect of the Force Majeure on the Affected Party's ability to perform any of its obligations under this Agreement; and

30.3.2 took reasonable precautions to prevent or minimise the Force Majeure including implementing and complying with an effective business continuity plan, except where compliance with the business continuity plan is itself affected by the Force Majeure;

30.3.3 uses all reasonable endeavours to mitigate the effect of the Force Majeure on the performance of its obligations.

30.4 The Affected Party shall keep the other party informed of its endeavours under clause 30.3.3 and their outcome in weekly written reports.

30.5 If the Supplier is relieved from providing the Services under this clause, it shall permit and co-operate with any efforts that the Authority may make to obtain alternative supplies of those Services.

30.6 If the Affected Party has not resumed full performance of any obligations suspended under clause 30.1 within 30 days after the start of the Force Majeure, the other party may terminate this Agreement by giving not less than 30 days' written notice to the Affected Party.

30.7 If the Affected Party has complied with clause 30.3.3, but is unable to resume substantive performance of its core obligations suspended under clause 30.1 within 30 days after giving notice of the Force Majeure, the Affected Party may terminate this Agreement by giving not less than 30 days' written notice to the other party.

31 **Prevention of bribery**

31.1 The Supplier represents and warrants that neither it, nor any Supplier Personnel:

31.1.1 has committed a Prohibited Act;

- 31.1.2 to the best of its knowledge has been or is subject to an investigation, inquiry or enforcement proceedings by a governmental, administrative or regulatory body regarding any Prohibited Act or alleged Prohibited Act; or
- 31.1.3 has been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 31.2 The Supplier shall promptly notify the Authority if, at any time during the Term, its circumstances, knowledge or awareness changes such that it would not be able to repeat the warranties set out in clause 31.1 at the relevant time.
- 31.3 The Supplier shall (and shall procure that its Supplier Personnel shall) during the Term:
 - 31.3.1 not commit a Prohibited Act;
 - 31.3.2 not do or omit to do anything that would cause the Authority or any of the Authority's employees, consultants, contractors, sub-contractors or agents to contravene any of the Relevant Requirements or otherwise incur any liability in relation to the Relevant Requirements;
 - 31.3.3 have and maintain in place its own policies and procedures to ensure compliance with the Relevant Requirements and prevent occurrence of a Prohibited Act which will as a minimum meet the compliance statement on the Authority's website <http://www.uksport.gov.uk/resources/fraud-corruption-and-bribery>;
 - 31.3.4 notify the Authority (in writing) if it becomes aware of any breach of clause 31.3.1 or clause 31.3.2, or has reason to believe that it or any person associated with it has received a request or demand for any undue financial or other advantage.
- 31.4 The Supplier shall maintain appropriate and up to date records showing all payments made by the Supplier in connection with this Agreement and the steps taken to comply with its obligations under clause 31.3.
- 31.5 The Supplier shall allow the Authority and its third party representatives to audit any of the Supplier's records and any other relevant documentation in accordance with clause 25.
- 31.6 If the Supplier is in default under this clause 31 the Authority may by notice:
 - 31.6.1 require the Supplier to remove from performance of this Agreement any Supplier Personnel whose acts or omissions have caused the default; or
 - 31.6.2 immediately terminate this Agreement.
- 31.7 Any notice served by the Authority under clause 31.6 shall specify the nature of the Prohibited Act, the identity of the Party who the Authority believes has committed the Prohibited Act and the action that the Authority has elected to take (including, where relevant, the date on which this Agreement shall terminate).

- 32.1 The Supplier shall:
- 32.1.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force (Anti-slavery Laws) including the Modern Slavery Act 2015;
 - 32.1.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4 of the Modern Slavery Act 2015 if such activity, practice or conduct had been carried out in England and Wales;
 - 32.1.3 include in its contracts with its Sub-Contractors anti-slavery and human trafficking provisions that are at least as onerous as those set out in this clause 32; and
 - 32.1.4 notify the Authority (in writing) as soon as it becomes aware of any breach or suspected breach of clause 32.1.
- 32.2 The Supplier represents and warrants throughout the Term that:
- 32.2.1 neither the Supplier nor any of its officers, employees or Sub-Contractors:
 - (a) has been convicted of any offence involving slavery and human trafficking anywhere in the world; or
 - (b) having made reasonable enquiries, so far as it is aware has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking. or
 - (c) been listed by any government department or agency as being debarred, suspended, or proposed for suspension or debarment from participation in public procurement programmes or otherwise been excluded from a public procurement procedure on grounds relating to forced labour or modern slavery offences or misconduct.
- 32.3 The Supplier shall implement due diligence procedures for its Sub-Contractors to ensure that there is no slavery or human trafficking taking place.
- 32.4 The Supplier shall:
- 32.4.1 maintain a complete set of records to trace the supply chain of all Services provided to the Authority in connection with this Agreement; and
 - 32.4.2 without prejudice to clause 25, if the Authority reasonably suspects the Supplier of breach of clause 32, permit the Authority and its third party representatives to have access to and take copies of any records and any other information at the Supplier's premises and to meet with the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 32;
- 32.5 The Supplier shall:

32.5.1 implement a system of training for its employees to ensure compliance with the Anti-Slavery Policy and Anti-slavery Laws;

32.5.2 keep a record of all training offered and completed by its employees to ensure compliance with the Anti-Slavery Policy and Anti-slavery Laws and shall make a copy of the record available to the Authority on request.

33 Consequences of termination or expiry

33.1 On the expiry of the Term or if this Agreement is terminated for any reason, the provisions of the Exit Management Plan shall come into effect and the Supplier shall co-operate fully with the Authority to ensure an orderly migration of the Services to the Authority or, at the Authority's request, a Replacement Supplier.

33.2 On termination or expiry of this Agreement and on satisfactory completion of the Exit Management Plan (or where reasonably so required by the Authority before such completion) the Supplier shall procure that all data and other material belonging to the Authority (and all media of any nature containing information and data belonging to the Authority or relating to the Services), shall be delivered to the Authority forthwith and the Supplier Authorised Representative or Chief Executive Officer shall certify full compliance with this clause.

33.3 Any provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry, including clause 5.3 (provision of records), clause 19 (Indemnities), clause 20 (Limitation of Liability), clause 21 (Insurance), clause 22 (Freedom of Information), clause 23 (Data Processing), clause 24 (Confidentiality), clause 25 (Audit) and this clause 32 (Consequences of termination), shall remain in full force and effect.

33.4 Termination or expiry of this Agreement shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the agreement which existed at or before the Termination Date.

General provisions

34 Waiver

34.1 A waiver of any right or remedy is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.

34.2 A delay or failure to exercise, or the single or partial exercise of, any right or remedy does not waive that or any other right or remedy, nor does it prevent or restrict the further exercise of that or any other right or remedy.

35 Rights and remedies

Except as expressly provided in this Agreement, the rights and remedies provided under this Agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

36 Severance

- 36.1 If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed deleted, but that shall not affect the validity and enforceability of the rest of this Agreement.
- 36.2 If any provision or part-provision of this Agreement is deemed deleted under clause 36.1, the parties shall negotiate in good faith to agree a replacement provision that, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 37 No partnership or agency**
- 37.1 Nothing in this Agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party.
- 37.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 38 Third party rights**
- 38.1 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.
- 38.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement are not subject to the consent of any other person.
- 39 Assignment and other dealings**
- 39.1 The Authority may at any time assign, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any or all of its rights and obligations under this Agreement, provided that it gives prior written notice of such dealing to the Supplier.
- 39.2 The Supplier shall not assign, transfer, mortgage, charge, subcontract, delegate, declare a trust over or deal in any other manner with any of its rights and obligations under this Agreement without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed).
- 40 Publicity**
- 40.1 The Supplier shall not:
- 40.1.1 make any press announcements or publicise this Agreement or its contents in any way; or
- 40.1.2 use the Authority'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 Authority, which shall not be unreasonably withheld or delayed.
- 41 Notices**

- 41.1 Any notice given to a party under or in connection with this contract shall be in writing marked for the attention of the party's Authorised Representative and shall be:
- 41.1.1 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
 - 41.1.2 sent by email to the following addresses (or an address substituted in writing by the party to be served):
 - (a) Party 1: Legal@uksport.gov.uk.
 - (b) Party 2: [ADDRESS].
- 41.2 Any notice shall be deemed to have been received:
- 41.2.1 If delivered by hand, at the time the notice is left at the proper address;
 - 41.2.2 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
 - 41.2.3 if sent by email, at the time of transmission, or if this time falls outside Working Hours in the place of receipt, when Working Hours resume.
- 41.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

42 Entire agreement

- 42.1 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous and contemporaneous agreements, promises, assurances and understandings between them, whether written or oral, relating to its subject matter.
- 42.2 Each party acknowledges that in entering into this Agreement it does not rely on, and 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.
- 42.3 Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.

43 Variation

Subject to clause 16, no variation of this Agreement shall be effective unless it is in writing and signed by the parties (or their Authorised Representatives).

44 Counterparts

- 44.1 This Agreement may be executed in any number of counterparts, each of which shall constitute a duplicate original of this Agreement, but all the counterparts shall together constitute the one agreement.

45 **Governing law**

This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

46 **Jurisdiction**

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

This agreement has been entered into on the date stated at the beginning of it.

Signed by [NAME OF
DIRECTOR] for and on behalf
of [NAME OF AUTHORITY]

.....

Director

Signed by [NAME OF
DIRECTOR] for and on behalf
of [NAME OF SUPPLIER]

.....

Director

Schedule 1 Specification

Schedule 2 Performance regime

Part 1 KPIs

1. The KPIs

1.1 The KPIs which the Parties have agreed shall be used to measure the performance of the Services by the Supplier are contained in the below table.

KPI Description	Method of calculating service delivery/ measurement period	Target KPI
[Uptake rate to be agreed with selected provider. This provides an example]. Assessment Uptake Rate. This KPI directly measures reach and engagement. For non-mandatory health programs, 60–80% uptake is considered strong; 70% is ambitious but realistic for a well promoted, sponsored scheme.	The percentage of eligible coaches who opt in and complete a health assessment during the pilot period.	≥ 70%
Timeliness of Reporting to UKS This KPI directly measures trends, accessibility and quality of service to monitor reporting mechanisms and tracking.	The percentage of monthly management information reports submitted on or before deadline, to UK Sport including: ○ Geographical coverage ○ Health trends ○ Average speed of reporting to	100%

	attendees' post-assessments	
Follow-up Actions Tracked to attendees This KPI directly measures trends, accessibility and quality of service to monitor reporting mechanisms and tracking.	The percentage of identified health concerns that have documented follow-up or signposting actions directly to the attendees within 2 weeks of assessment.	95% of all identified health concerns. 100% for identified high-risk assessments within 72 hours.
[KPIs for Educational Resource Engagement to be agreed with selected provider. This provides an example]. Health Literacy Improvement This KPI gauges value and use of supplementary materials to monitor educational resource engagement.	The number of new educational tools or services per quarter; and The percentage of coaches who report an increase in health literacy (measured in pre- and post- assessment survey).	A minimum of 2 new educational tools or services per quarter; and $\geq 50\%$ of coaches report an increase in health literacy.
[KPIs for Educational Resource Engagement to be agreed with selected provider. For example;] Participation or engagement in educational events or resources This KPI gauges value and use of supplementary materials to monitor educational resource engagement.	The percentage of coaches that attend at least one live or virtual educational session or resource (guide etc).	$\geq 40\%$
Coach Satisfaction Score. This KPI captures user experience and 'likelihood to recommend' in order to	The percentage of coaches that rate the assessment process as "satisfied" or "very satisfied".	$\geq 85\%$

monitor coach satisfaction score.		
Feedback Response Rate. This KPI captures user experience and 'likelihood to recommend' in order to monitor coach satisfaction score.	The percentage of coaches that complete a post-assessment feedback survey.	≥ 60%

- 1.2 The Supplier shall monitor its performance against each Target KPI and shall send the Authority a report detailing the Achieved KPIs in accordance with Schedule 5.

Part 2 Consistent failure

1. Consistent failure

- 1.1 In this Agreement, **Consistent Failure** shall mean:

- 1.1.1 a failure to meet

- (a) 3 or more Target KPIs in a rolling 3 month period or breaching the same KPI for 3 consecutive months.

OR

- 1.1.2 the Authority serving 3 Remediation Notices in a rolling 6 month period.

OR

- 1.1.3 the Supplier repeatedly breaching any of the terms of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement.

Schedule 3 Supplier's Tender

Schedule 4 Charges and payment

1. Calculation of the Charges

- 1.1 The Charges shall be calculated on the basis of the rates and prices set out in this Schedule.

Type of Fixed Cost	Charges (£)
Price per health assessment	[INSERT FIGURE (EXPRESSED AS UNIT COST)]

2. Payment Plan

Invoices to be submitted on a quarterly basis as follows:

25/26 FYR - 31st March 2026,

26/27 FYR - 30th June 2026, 30th September 2026, 31st December 2026, 31st March 2027

27/28 FYR – 30th June 2027, 30th September 2027, 31st December 2027, End of contract date – final payment.

3. Termination Payment Default

- 3.1 In the event that at any time undisputed Charges of more than £150,000 have been overdue for payment for a period of 60 days or more, the Authority will have committed a Termination Payment Default.

Schedule 5 Contract management

1. Authorised representatives
 - 1.1 The Authority's initial Authorised Representative: [INSERT DETAILS]
 - 1.2 The Supplier's initial Authorised Representative: [INSERT DETAILS]
2. Key personnel
 - 2.1 [INSERT DETAILS]
3. Reports
 - 3.1 Type
 - 3.2 Contents
 - 3.3 Frequency
 - 3.4 Circulation list

Schedule 6 TUPE

Definitions for this Schedule 6

"Final Supplier Personnel List"	a list provided by the Supplier of all Supplier Personnel who will transfer under the Employment Regulations on the Service Transfer Date;
"Former Supplier"	a supplier supplying services to the Authority before any Relevant Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such supplier (or any sub-contractor of any such sub-contractor);
"Provisional Supplier Personnel List"	a list prepared and updated by the Supplier of all Supplier Personnel who are at the date of the list wholly or mainly engaged in or assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Supplier;
"Replacement Sub-contractor"	a sub-contractor of the Replacement Supplier to whom Transferring Supplier Employees will transfer on a Service Transfer Date (or any sub-contractor of any such sub-contractor);
"Service Transfer"	any transfer of the Services (or any part of the Services), for whatever reason, from the Supplier or any Sub-contractor to a Replacement Supplier or a Replacement Sub-contractor;
"Service Transfer Date"	the date of a Service Transfer or, if more than one, the date of the relevant Service Transfer as the context requires;
"Staffing Information"	in relation to all persons identified on the Provisional Supplier Personnel List or Final Supplier Personnel List, as the case may be, the information required in Error! Reference source not found. in that format together with employee liability information specified in Regulation 11(2) and 11(3) and if applicable 11(4) of the Employment Regulations and such other information as the Authority may reasonably require. The Authority may acting reasonably make changes to the format or information requested in Error! Reference source not found. from time to time;
"Transferring Supplier Employees"	those employees of the Supplier and/or the Supplier's Sub-contractors to whom the Employment Regulations will apply on the Service Transfer Date.

Procedure in the Event of Transfer

1 The Authority and the Supplier agree that the commencement of the provision of the Services or of any part of the Services is not expected to be a Relevant Transfer in relation to any employees of the Authority and/or any Former Supplier. Employment Exit Provisions

1. Pre-service Transfer Obligations

1.1 The Supplier agrees that within 20 Working Days of the earliest of:

- 1.1.1 receipt of a notification from the Authority of a Service Transfer or intended Service Transfer;
- 1.1.2 receipt of the giving of notice of early termination of this Contract; and
- 1.1.3 the date which is 12 months before the end of the Term; or
- 1.1.4 receipt of a written request of the Authority at any time (provided that the Authority shall only be entitled to make one such request in any 6 month period),

it shall provide in a suitably anonymised format so as to comply with the DPA 2018, the Provisional Supplier Personnel List, together with the Staffing Information and it shall provide an updated Provisional Supplier Personnel List at such intervals as are reasonably requested by the Authority.

1.2 At least 20 Working Days prior to the Service Transfer Date, the Supplier shall provide to the Authority or at the direction of the Authority to any Replacement Supplier and/or any Replacement Sub-contractor:

- 1.2.1 the Final Supplier Personnel List, which shall identify which of the Supplier Personnel are Transferring Supplier Employees; and
- 1.2.2 the Staffing Information in relation to the Final Supplier Personnel List (insofar as such information has not previously been provided).

1.3 The Authority shall be permitted to use and disclose information provided by the Supplier under Paragraphs 1.1 and 1.2 for the purpose of informing any prospective Replacement Supplier.

1.4 The Supplier warrants, for the benefit of the Authority, any Replacement Supplier, that all information provided pursuant to Paragraphs 1.1 and 1.2 shall be true and accurate in all material respects at the time of providing the information.

1.5 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Provisional Supplier Personnel List and shall not without the approval of the Authority (not to be unreasonably withheld or delayed):

- 1.5.1 replace or re-deploy any Supplier Personnel listed on the Provisional Supplier Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person they replace;
- 1.5.2 make, promise, propose, permit or implement any material changes to the terms and conditions of employment of the Supplier Personnel (including pensions and any payments connected with the termination of employment);

- 1.5.3 increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Supplier Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- 1.5.4 introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Provisional Supplier Personnel List;
- 1.5.5 increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- 1.5.6 terminate or give notice to terminate the employment or contracts of any persons on the Provisional Supplier Personnel List save by due disciplinary process,

and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Authority or, at the direction of the Authority, any Replacement Supplier and any Replacement Sub-contractor of any notice to terminate employment given by the Supplier or relevant Sub-contractor or received from any persons listed on the Provisional Supplier Personnel List regardless of when such notice takes effect.

- 1.6 During the Term, the Supplier shall provide, and shall procure that each Sub-contractor shall provide, within 20 Working Days to the Authority any information the Authority may reasonably require relating to the manner in which the Services are organised, which shall include:
 - 1.6.1 the numbers of Supplier Personnel engaged in providing the Services;
 - 1.6.2 the percentage of time spent by each Supplier Personnel engaged in providing the Services;
 - 1.6.3 the extent to which each employee qualifies for membership of any of the Statutory Schemes or any Broadly Comparable scheme set up pursuant to the provisions of any of the Annexes to Part D (Pensions) of this Schedule 24 (Staff Transfer) (as appropriate); and
 - 1.6.4 a description of the nature of the work undertaken by each Supplier Personnel by location.
- 1.7 The Supplier shall provide all reasonable cooperation and assistance to the Authority, any Replacement Supplier to ensure the smooth transfer of the Transferring Supplier Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Supplier Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Supplier shall provide to the Authority or, at the direction of the Authority, to any Replacement Supplier, in respect of each person on the Final Supplier Personnel List who is a Transferring Supplier Employee:
 - 1.7.1 the most recent month's pay slip data;
 - 1.7.2 details of cumulative pay for tax and pension purposes;

- 1.7.3 details of cumulative tax paid;
 - 1.7.4 updated tax code as at the Service Transfer Date if the code has changed since it was previously provided;
 - 1.7.5 updated details of any voluntary deductions from pay as at the Service Transfer Date if changes have occurred since the details were previously provided;
 - 1.7.6 a copy of the personnel file and all other records regarding the service of the Transferring Supplier Employee;
 - 1.7.7 all information required to meet the minimum recording keeping requirements under the Working Time Regulations 1998 and the National Minimum Wage Regulations 2015; and
 - 1.7.8 updated bank/building society or other account details for payroll purposes if they have changed since they were previously provided.
- 1.8 From the date of the earliest event referred to in Paragraph 1.1.1, 1.1.2 and 1.1.3, the Supplier agrees that following a request from the Authority it shall and shall procure that each Sub-contractor shall use reasonable endeavours to comply with any request to align and assign Supplier Personnel to any future delivery model proposed by the Authority for Replacement Services within 30 Working Days or such longer timescale as may be agreed.
- 1.9 Any changes necessary to this Contract as a result of alignment referred to in Paragraph 1.8 shall be agreed in accordance with the Change Control Procedure.

Employment Regulations Exit Provisions

- 1.10 The Authority and the Supplier acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Supplier and/or a Replacement Sub-contractor. Such change in the identity of the supplier of such services may constitute a Relevant Transfer to which the Employment Regulations will apply. The Authority and the Supplier further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Supplier and the Transferring Supplier Employees (except in relation to any contract terms disapplied through operation of regulation 10 of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Supplier and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Supplier Employee.
- 1.11 The Supplier shall comply with all its obligations under the Employment Regulations and in particular obligations in respect of the Transferring Supplier Employees arising under the Employment Regulations in respect of the period up to (but excluding) the Service Transfer Date and shall perform and discharge all its obligations in respect of any person identified in the Final Supplier Personnel List arising in respect of the period up to (but excluding) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, pay for accrued but untaken holiday, bonuses, commissions, payments of

PAYE, national insurance contributions and pension contributions and all such sums due as a result of any Fair Deal Employees' participation in the Statutory Schemes and any requirement to set up a broadly comparable pension scheme which in any case are attributable in whole or in part to the period ending on (and excluding) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between:

1.11.1 the Supplier; and

1.11.2 the Replacement Supplier.

1.12 Subject to Paragraph 2.4, the Supplier shall indemnify the Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor against any Employee Liabilities arising from or as a result of:

1.12.1 any act or omission of the Supplier or any Sub-contractor in respect of any Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee whether occurring before, on or after the Service Transfer Date;

1.12.2 the breach or non-observance by the Supplier or any Sub-contractor occurring before but excluding the Service Transfer Date of:

(a) any collective agreement applicable to the Transferring Supplier Employees; and/or

(b) any other custom or practice with a trade union or staff association in respect of any Transferring Supplier Employees which the Supplier or any Sub-contractor is contractually bound to honour;

1.12.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees arising from or connected with any failure by the Supplier or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising before but excluding the Service Transfer Date;

1.12.4 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

(a) in relation to any Transferring Supplier Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date; and

(b) in relation to any employee who is not identified in the Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier to the Authority and/or Replacement Supplier and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising before but excluding the Service Transfer Date;

- 1.12.5 a failure of the Supplier or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees in respect of the period up to (but excluding) the Service Transfer Date);
 - 1.12.6 any claim made by or in respect of any person employed or formerly employed by the Supplier or any Sub-contractor other than a Transferring Supplier Employee identified in the Final Supplier Personnel List for whom it is alleged the Authority and/or the Replacement Supplier and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations; and
 - 1.12.7 any claim made by or in respect of a Transferring Supplier Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Supplier Employee relating to any act or omission of the Supplier or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Authority and/or Replacement Supplier to comply with regulation 13(4) of the Employment Regulations.
- 1.13 The indemnities in Paragraph 2.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to any act or omission of the Replacement Supplier and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:
- 1.13.1 arising out of the resignation of any Transferring Supplier Employee before the Service Transfer Date on account of substantial detrimental changes to his/her terms and conditions of employment or working conditions proposed by the Replacement Supplier and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
 - 1.13.2 arising from the Replacement Supplier's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.
- 1.14 If any person who is not identified in the Final Supplier Personnel List claims, or it is determined in relation to any person who is not identified in the Final Supplier Personnel List, that his/her contract of employment has been transferred from the Supplier or any Sub-contractor to the Replacement Supplier and/or Replacement Sub-contractor pursuant to the Employment Regulations, then:
- 1.14.1 the Authority shall procure that the Replacement Supplier shall, or any Replacement Sub-contractor shall, within 5 Working Days of becoming aware of that fact, give notice in writing to the Supplier; and
 - 1.14.2 the Supplier may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Supplier and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

- 1.15 If such offer is accepted, or if the situation has otherwise been resolved by the Supplier or a Sub-contractor, the Authority shall procure that the Replacement Supplier shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from their employment or alleged employment.
- 1.16 If after the 15 Working Day period specified in Paragraph 2.5.2 has elapsed:
- 1.16.1 no such offer of employment has been made;
 - 1.16.2 such offer has been made but not accepted; or
 - 1.16.3 the situation has not otherwise been resolved

the Authority shall advise the Replacement Supplier and/or Replacement Sub-contractor, as appropriate that it may within 5 Working Days give notice to terminate the employment or alleged employment of such person.

- 1.17 Subject to the Replacement Supplier and/or Replacement Sub-contractor acting in accordance with the provisions of Paragraphs 2.5 to 2.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Supplier shall indemnify the Replacement Supplier and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination of employment pursuant to the provisions of Paragraph 2.7 provided that the Replacement Supplier takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

- 1.18 The indemnity in Paragraph 1.17:

- 1.18.1 shall not apply to:

- (a) any claim for:

(i) any contravention of the Equality Act 2010 (or predecessor/successor legislation); or

(ii) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees,

in any case in relation to any alleged act or omission of the Replacement Supplier and/or Replacement Sub-contractor; or

- (b) any claim that the termination of employment was unfair because the Replacement Supplier and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

- 1.18.2 shall apply only where the notification referred to in Paragraph 1.14.1 is made by the Replacement Supplier and/or Replacement Sub-contractor to the Supplier within 6 months of the Service Transfer Date.

- 1.19 If any such person as is described in Paragraph 1.14 is neither re-employed by the Supplier or any Sub-contractor nor dismissed by the Replacement Supplier and/or Replacement Sub-contractor within the time scales set out in Paragraphs 1.14 to 1.16, such person shall be treated as a Transferring Supplier Employee.

- 1.20 The Supplier shall, and shall procure that each Sub-contractor shall, promptly provide to the Authority and any Replacement Supplier and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Authority, the Replacement Supplier and/or Replacement Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations. The Authority shall procure that the Replacement Supplier and/or Replacement Sub-contractor, shall promptly provide to the Supplier and each Sub-contractor in writing such information as is necessary to enable the Supplier and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.
- 1.21 Subject to Paragraph 1.22, the Authority shall procure that the Replacement Supplier indemnifies the Supplier on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities arising from or as a result of:
- 1.21.1 any act or omission of the Replacement Supplier and/or Replacement Sub-contractor in respect of any Transferring Supplier Employee identified in the Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee;
 - 1.21.2 the breach or non-observance by the Replacement Supplier and/or Replacement Sub-contractor on or after the Service Transfer Date of:
 - (a) any collective agreement applicable to the Transferring Supplier Employees identified in the Final Supplier Personnel List; and/or
 - (b) any custom or practice in respect of any Transferring Supplier Employees identified in the Final Supplier Personnel List which the Replacement Supplier and/or Replacement Sub-contractor is contractually bound to honour;
 - 1.21.3 any claim by any trade union or other body or person representing any Transferring Supplier Employees identified in the Final Supplier Personnel List arising from or connected with any failure by the Replacement Supplier and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
 - 1.21.4 any proposal by the Replacement Supplier and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Supplier Employees identified in the Final Supplier Personnel List on or after their transfer to the Replacement Supplier or Replacement Sub-contractor (as the case may be) on the Service Transfer Date, or to change the terms and conditions of employment or working conditions of any person identified in the Final Supplier Personnel List who would have been a Transferring Supplier Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations or otherwise) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;
 - 1.21.5 any statement communicated to or action undertaken by the Replacement Supplier or Replacement Sub-contractor to, or in respect of, any Transferring Supplier Employee identified in the Final Supplier

Personnel List on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Supplier in writing;

- 1.21.6 any proceeding, claim or demand by HMRC or other statutory authority in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
- (a) in relation to any Transferring Supplier Employee identified in the Final Supplier Personnel List, to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date; and
 - (b) in relation to any employee who is not a Transferring Supplier Employee identified in the Final Supplier Personnel List, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Supplier or Sub-contractor, to the Replacement Supplier or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory authority relates to financial obligations arising on and after the Service Transfer Date;
- 1.21.7 a failure of the Replacement Supplier or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Supplier Employees identified in the Final Supplier Personnel List in respect of the period from (and including) the Service Transfer Date; and
- 1.21.8 any claim made by or in respect of a Transferring Supplier Employee identified in the Final Supplier Personnel List or any appropriate employee representative (as defined in the Employment Regulations) of any such Transferring Supplier Employee relating to any act or omission of the Replacement Supplier or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.
- 1.22 The indemnities in Paragraph 1.21 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Supplier and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Supplier and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

Schedule 7 Commercially sensitive information

[DETAILS OF ANY SUPPLIER INFORMATION TO BE CLASSIFIED AS COMMERCIALY SENSITIVE]

Schedule 8 Data processing

1. Processing by the Supplier
 - 1.1 Scope
 - 1.2 Nature
 - 1.3 Purpose of processing
 - 1.4 Duration of processing
2. Types of Personal Data
3. Categories of Data Subject