



Dorset Council

and

FRAMEWORK AGREEMENT

relating to

the Provision of Children's Residential Care

REFERENCE NUMBER DC-CS/2022-XX

Lot:

1 – Planned and Same Day Children's Homes Residential Care

2 – Therapeutic Residential Care

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PARTIES TO THE AGREEMENT

This Agreement is made between:

Dorset Council ('the Purchaser') whose principal place of business is at County Hall, Colliton Park, Dorchester, Dorset, DT1 1XJ; and

XXXXXXX ('the Provider') whose registered office is at XXXXXXXXXX, company registration number XXXXXX, charity registration number XXXXXXXXXX.

BACKGROUND

- A. The Purchaser has appointed the Provider to the Framework to provide Services on a call-off basis, whether on an individual or a block basis, in respect of the Lots awarded, in accordance with the terms and conditions of this Framework Agreement.
- B. The Lots are as follows:

Lot	Lot Details
Lot 1:	Planned and Same Day Children's Homes Residential Care Children and young people requiring planned and/ or same day residential care and accommodation only, with preparation for family living, who are normally resident within the Dorset Council area.
Lot 2:	Therapeutic Residential Care Children and young people requiring a therapeutic residential placement, with preparation for family living, who are normally resident within the Dorset Council area.

- C. This Framework Agreement sets out the procedure to be followed by the Purchaser in commissioning the Services and the obligations of the Provider during and after the Agreement Period.
- D. It is the intention of the Parties to this Framework Agreement that there will be no obligation for the Purchaser to call off any Services under this Framework Agreement during the Agreement Period.

DEFINITIONS AND INTERPRETATION

For the purposes of this Agreement the following definitions shall apply: -

'Agreement Period'	the period specified in Clause 2.1 (as extended if applicable) or ending on earlier termination in accordance with this Framework Agreement.
'Call-Off Contract' or 'Contract'	the legally binding agreement for the provision of the Services under a Lot or Lots/s between the Purchaser and the Provider comprising an Order and the Individual Placement Agreement/s, and made on the terms and conditions of this

	Agreement and any other terms communicated by the Purchaser at the point of call-off and specifically excluding the Provider's terms and conditions of business, and awarded in accordance with the process set out in Schedule 1.
'Commercially Sensitive Information'	any information so specified and provided by the Provider to the Purchaser in confidence.
'Confidential Information'	any information which has been designated as confidential by either party or by any Service User that ought to be considered as confidential (however it is conveyed) which either party may receive or obtain in connection with the operation of this Agreement.
'Contract Manager'	the competent person nominated by the Provider who shall: - (i) be the nominated officer of the Provider; (ii) manage the Agreement and make decisions about the provision of the Services.
'Contract Price'	the price payable (exclusive of any applicable VAT) to the Provider by the Purchaser for the Services as set out in the Pricing Schedule at Schedule 2 for the full and proper performance of its obligations under any Call-Off Contract.
'Contracts Officer'	the person nominated by the Purchaser who shall: (i) manage and administer the Agreement; (ii) arrange payment for the Services; (iii) monitor the Provider on a regular basis to ensure that the Agreement is adhered to; (iv) be responsible for ensuring that the information requested from the Provider, as detailed in Clause 10, is provided by the Provider at the time specified.
'Framework Agreement' or 'Agreement'	this agreement consisting of these terms and conditions, the schedules, the invitation to tender, the Provider's tender submission (to the extent that it does not contradict anything in this Agreement) and any documents accompanying it.
'Framework'	the arrangements the Purchaser is putting in place for the provision of the Services by the appointment of a number of providers subject to the terms of this Framework Agreement.
'Individual Placement Agreement' or 'IPA'	the legally binding agreement relating to a Placement which forms part of the Call-Off Contract.

'Lot'		the Services grouped into defined categories as set out above. The Services to be provided under the relevant Lot awarded to the Provider following tender will be detailed in the Service Specification.
'Order'		a written instruction in whatever form from the Purchaser to the Provider requiring Services to be provided under a Call-Off Contract for a defined period on the terms of this Agreement and any further terms required by the Purchaser.
'Personnel'		all persons employed by the Provider together with the Provider's volunteers, agents and sub-contractors used in the performance of the Services.
'Placement'		the provision of Services to a Service User under an Individual Placement Agreement and governed by the terms of this Framework Agreement
'Premises'		any location where the Services are performed.
'Provider'		the Provider including its Personnel, agents, successors and permitted assigns, which is responsible for providing the Services.
'Service Specification'		the document at Schedule 1 which sets out the level, scope and standards of the Services to be provided under any Call-Off Contract awarded under this Agreement.
'Service User(s)'		an individual who is, or will be, receiving the Services in accordance with the Service Specification and any related documents appended. Where appropriate, references to Service User shall include the Service User's carer.
'Services'		the Services that the Provider is obliged to provide to Service Users as specified in this Agreement including for the avoidance of doubt the Services set out in the Service Specification and the Service User's care plan, if applicable.
'TUPE'		the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended).
'Working Day'		Monday to Friday inclusive but not including any declared public holiday.

In this Agreement:

- Headings do not affect its interpretation or construction;
- Words importing the singular include the plural and vice versa;
- References to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement;
- Words importing any gender include every gender;
- Any reference to an enactment includes a reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment.
- In the event of any conflict between the clauses and schedules, the schedules shall prevail.
- References to the Purchaser and the Provider include references to any successor body or person to which shall fall the right to enforce the benefit of this Agreement or to which shall be transferred any statutory function of the Purchaser or the Provider whether by way of act of Parliament, statutory instrument, express agreement or deed or otherwise.

1. SCOPE OF FRAMEWORK AGREEMENT AND AWARD OF CALL-OFF CONTRACTS

- 1.1 This Agreement provides a Framework for the Purchaser to use the Services of the Provider and is not intended to impose any restriction on the ability of the Purchaser to use the services of other providers. There will be no obligation on the Purchaser to award any Call-Off Contract under this Agreement during the Agreement Period.
- 1.2 No undertaking or any form of statement, promise, representation or obligation shall be deemed to have been made by the Purchaser in respect of the total quantity or value of the Services to be ordered by it pursuant to this Agreement and the Provider acknowledges and agrees that it has not entered into this Agreement on the basis of any such undertaking, statement, promise or representation.
- 1.3 The Purchaser appoints the Provider as a potential supplier of the Services and the Provider shall be eligible to be considered for the placing of a Call-Off Contract for the Services by the Purchaser during the Agreement Period on the terms of this Agreement.
- 1.4 This Agreement does not constitute an Order to the Provider to carry out any work on behalf of the Purchaser. The Purchaser shall only authorise the Services to be provided by way of awarding a Call-Off Contract.
- 1.5 If the Purchaser decides to source Services through the Framework Agreement it may award a Call-Off Contract in accordance with the procedure set out in the Service Specification and on the terms laid down in this Framework Agreement.
- 1.6 The Purchaser shall award a Call-Off Contract by way of direct award based on the criteria set out in the Service Specification at Schedule 1, but reserves the right in its

absolute discretion to award by way of a further competition.

2. ENTIRE AGREEMENT

- 2.1 This Agreement, together with the Call-Off Contract contains the whole agreement between the parties in respect of the Services and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement.

3. AGREEMENT PERIOD

- 3.1 This Agreement shall commence on 1 July 2022 and shall continue until 30 June 2027 unless terminated earlier in accordance with the provisions of this Agreement.
- 3.2 The Framework Agreement may be extended for two further periods of one year, on a year by year basis, by mutual agreement of the parties. The Purchaser shall give reasonable notice to the Provider of its intention to offer an extension of the Framework Agreement which shall normally be three months before the Framework Agreement end date.

4. PROVIDER STATUS

- 4.1 In carrying out the Services, the Provider shall be acting as Principal and not as the agent of the Purchaser.
- 4.2 This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Agreement.
- 4.3 Neither party shall have, nor represent that it has, any authority to make commitments on the other party's behalf. The Provider shall ensure that its Personnel do not say or do anything that might lead another person to believe that the Provider is acting as an agent of the Purchaser.

5. PROVIDER'S OBLIGATIONS

- 5.1 The Provider shall provide the Services during the Agreement Period fully in accordance with the Service Specification at Schedule 1 and the terms of this Agreement.
- 5.2 The Provider shall perform the Services with all reasonable care and skill, to avoid injury to persons or damage to property and so as to conform with all relevant legislative requirements, best practice and all relevant standards and specifications, whether specified in this Agreement or not.
- 5.3 The Provider shall ensure that suitable up to date contact details and arrangements are maintained for the Purchaser at all times and, as may be the case, Service Users.
- 5.4 The Provider shall assist the Purchaser in reviewing the planning, provision and operation of the Services, comply with the reasonable directions of the Purchaser and use all reasonable endeavours to carry out the Services in accordance with any variations to the Service Specification.
- 5.5 The Provider shall attend contract review meetings as reasonably required.

- 5.6 The Provider shall perform the Services in such a way as to promote the safe, efficient and professional delivery of the Services, and so as not to cause damage to the public perception of the Services or the reputation of the Purchaser.
- 5.7 The Provider shall properly manage and monitor the performance of the Services at all times, and immediately notify the Purchaser of any actual or potential problems that affect or might affect the delivery of the Services.
- 5.8 The Provider shall provide all Personnel, equipment, Premises, resources and other things required for the provision of the Services and shall maintain such equipment and Premises and other resources in a safe, serviceable and clean condition.
- 5.9 The Provider shall maintain registration with OFSTED and/or if appropriate the Care Quality Commission (CQC) for the duration of the Framework Agreement and any Call-Off Contract awarded under it.
- 5.10 The Provider must be registered, licensed or approved and shall comply with the provisions of the Children's Homes (England) Regulations 2015, the National Minimum Standards for Children's Homes 2002 and all relevant current and future legislation, Acts of Parliament, amendment or re-enactment of any Act, statutory regulation and other such laws and statutory guidance relevant to the provision of the Services.
- 5.11 Any changes to the Provider's registration status must be notified to the Purchaser immediately in writing.
- 5.12 The Provider will report all notifiable events in accordance with Schedule 5, Regulation 40(1) Children's Homes (England) Regulations 2015. The Provider will immediately report to the Purchaser any notifiable events and any additional notifiable events as identified in the IPA.
- 5.13 The Provider will give the Purchaser no less than 3 months written notice of any proposals to close the Premises or any intended closure of the Premises.
- 5.14 In the event of a potential or actual emergency closure of the Premises, the regulatory body and the Purchaser must be informed immediately and the Parties will work together to safeguard the interests of the Service User/s until such time as an alternative arrangement can be made.

6. PROVIDER'S PERSONNEL

- 6.1 The Provider warrants and represents that all its Personnel assigned to the performance of the Services shall be suitably vetted, qualified, trained and experienced to provide the Services required, are legally entitled to work in the UK and shall be made fully aware of the Provider's obligations under this Agreement as it affects them in the performance of the Services.
- 6.2 The Provider shall at all times employ and assign to the Services Personnel who are fit and competent to provide the Services and of sufficient number to ensure that the Services are provided at all times in accordance with this Agreement.
- 6.3 The Provider shall promptly replace any Personnel assigned to the Services and who cease to be in its employment or under its control for whatever reason and such

replacements shall have the equivalent skill levels and shall in every way be suitable for the performance of the Services.

- 6.4 The Provider shall ensure all Personnel deployed on the Services are properly managed and sufficiently instructed and supervised with regard to the provision of the Services.
- 6.5 The Provider shall give and shall ensure that its Personnel give all reasonable assistance to the Purchaser in the investigation of complaints, disciplinary matters, claims for damages and similar matters.
- 6.6 The Provider must ensure that robust (1992 Warner Report: Choosing with Care) recruitment procedures are in place in line with the National Minimum Care Standards for Children's Homes, in particular Standard 27 and equal opportunities legislation.
- 6.7 The Purchaser shall have power upon written notice to require the Provider, but not unreasonably or vexatiously, to remove any Personnel from involvement in the Services whose admission or continued presence would be, in the reasonable opinion of the Purchaser, undesirable. The decision of the Purchaser shall be final and conclusive.
- 6.8 The Purchaser shall in no circumstances be liable either to the Provider or to any Personnel in respect of any award, cost, expenses, liability, loss or damage occasioned by such a removal and the Provider shall fully indemnify the Purchaser in respect of any claims made.

7. SERVICE CONTINUITY

- 7.1 The Provider shall have contingency arrangements in place, as approved by the Purchaser, to ensure continuity of the Services at all times at no extra cost to the Purchaser. These shall include, but not be limited to, arrangements to deal with staff absences.
- 7.2 The Provider shall demonstrate, on request by the Purchaser for the duration of the Framework Agreement and any Call-Off Contract, that it has adequate business continuity plans and associated contingency arrangements in place to ensure minimum disruption in the provision of any part of the Services in the event of a major incident affecting its ability to provide the Services, including an insolvency event affecting the Provider or any key sub-contractor, such plans and arrangements being appropriate to the scale of the Provider's commitments under the Framework Agreement.
- 7.3 The Purchaser reserves the right to request detailed evidence of contingency plans, such as sight of the Provider's business continuity plan and evidence of the testing of the plan, and to require review and/or amendment of the plan and any other contingency arrangements to meet the Purchaser's requirements and in any event the Provider shall review the plans as a minimum every six months.

8. VARIATIONS AND WAIVERS

- 8.1 The Purchaser reserves the right to require changes to the Services ('a Service Variation') for any reason including to meet the Purchaser's policy prevailing at the time.
- 8.2 The Purchaser shall give reasonable written notice of any such Service Variation to the Provider.
- 8.3 In the event of dispute, the matter shall be determined in accordance with the dispute resolution procedure at Clause 31.
- 8.4 The Purchaser and Provider may vary the Agreement by mutual written consent.
- 8.5 Failure by either party to insist on strict performance of the Agreement or to exercise any right or remedy on breach of any provision of the Agreement shall not constitute a waiver of the Agreement conditions or a waiver of any subsequent breach or default in the performance of the Agreement. The rights and remedies provided in this Agreement are cumulative and not exclusive of any rights and remedies provided by law.
- 8.6 **Contract Price:** The Contract Price shall be inclusive of all costs, expenses and overheads but exclusive of VAT which shall be charged at the prevailing rate.
- 8.7 The prices quoting the Pricing Schedule at Schedule 2 detailing the rates for the supply of the Goods or Services shall not be revised for a period of at least 12 months from the Commencement Date and on an annual meeting review basis may be varied thereafter, with the agreement of both parties.
- 8.8 The Council will not discuss any price proposal submitted by the Provider without the Provider also submitting supporting evidence, in the format provided by the Council, of the reason for the said price proposal and transparent calculations as to how the proposed revised price has been reached.
- 8.9 No revision of prices shall be implemented by the Provider without the agreement of the Council.
- 8.10 Should a price proposal be acceptable to the Council then it may not be implemented by the Provider for at least 28 days of the implementation date agreed by both parties.
- 8.11 Any agreed price variation shall be valid for a period of 12 months.
- 8.12 The Council, in the event of a price proposal being unacceptable to the Council, reserves the right to negotiate with the Provider and should these negotiations prove unsuccessful with no agreement reached by both parties, the Council may at its discretion purchase goods or services elsewhere.
- 8.13 Any price reduction shall have an immediate effect and must be notified to the Council within 48 hours of it being known to the Provider.
- 8.14 The Provider will endeavour to keep pricing competitive throughout the life of the Framework Agreement.

8.15 In the event of an extension to the Agreement Period, the Purchaser reserves the right to review and change the Contract Price.

9. FINANCIAL ARRANGEMENTS

9.1 The Contract Price payable by the Purchaser to the Provider for each Service User during the Contract Period shall be set out in each Call-Off Contract, calculated by reference to and in accordance with the Pricing Schedule at Schedule 2.

9.2 Any other costs relating to additional services which the Provider has agreed to supply in respect of a Service User will be separately identified in each Call-Off Contract and priced using the Pricing Schedule. Where the IPA includes an additional service the take up of which a Service User can refuse, the following shall apply:

- i) In the event that within any 14 day initial period specialist or educational Services offered to the Service User have been refused by the Service User then the Provider shall within 7 days thereafter provide a written report to the Contracts Officer as to the circumstances of such refusal and the steps taken by the Provider to encourage the take up of the Services. Within a further 7 days a meeting shall be convened to consider what further steps may be appropriate. Where following the meeting a decision is made to withdraw any element of the additional services, the Contract Price shall be reduced pro-rata.

9.3 The Provider must ensure that neither it, nor any of its Personnel, makes any charges to the Service User or their families in respect of this Contract.

9.4 The Purchaser will be responsible for ensuring the payment of fines and court costs imposed by a court on any Service User. The Provider will be responsible for any fines or court costs arising from its failure to provide the Services defined in the Call-Off Contract or its failure to co-operate with the requirements of the court.

9.5 All payments shall be made in sterling, unless otherwise agreed between the parties.

9.6 Payment shall be made within 30 days of receipt of a valid invoice for the Services performed to the satisfaction of the Purchaser.

9.7 Where the Provider enters into a sub-contract for the provision of the Services, the Provider shall include in that sub-contract a provision for payment within 30 days of receipt of a valid invoice.

9.8 If the Provider withdraws, makes unavailable or fails to provide the Services, either temporarily or permanently, the Provider shall reimburse the Purchaser the relevant proportion of the Contract Price in respect of the period of unavailability, unless otherwise agreed in advance with the Purchaser.

9.9 If the Purchaser intends to withhold all or any part of a payment it shall give reasonable notice to the Provider to that effect, which notice shall specify the amount proposed to be withheld and the ground for doing so.

10. INFORMATION

10.1 The Provider shall maintain accurate documented information as may be required by

the Purchaser.

- 10.2 The Provider shall submit to the Contracts Officer the following information: -
- 10.2.1 a written report, where appropriate, detailing evidence that the Services are meeting the objectives of this Agreement;
 - 10.2.2 a copy of the audited (or inspected) accounts as soon as they are available and an up-to-date copy of the governing document of the Provider, if not provided to the Purchaser previously;
 - 10.2.3 a copy of the Provider's current insurance policy(ies) in accordance with the requirements of Clause 17 if not provided previously.
- 10.3 The Purchaser may inspect books of accounts, financial documents and other records held by the Provider and may visit establishments at any time and without notice to view the performance of the Services and obtain such explanations as may be considered necessary in so far as they concern matters pertaining to the Agreement and any Service User using the Services.
- 10.4 The Provider shall ensure that all information held pertaining to Service Users is kept secure and reasonable steps are taken to prevent theft or loss.
- 10.5 The Purchaser reserves the right to seek from and share relevant information with other care and medical service providers, the Care Quality Commission, OFSTED, other local authorities, the police and Clinical Commissioning Groups (as appropriate to the Services), in response to concerns raised in relation to standards of service provision or in relation to any child or adult protection investigation.
- 10.6 The Provider shall comply with the requirements of the Pan-Dorset Multi-Agency Safeguarding Procedures in relation to information sharing.

11. AUDIT

- 11.1 The Provider shall keep and maintain until six years after the Agreement has ended, or as long a period as may be agreed between the parties, full and accurate records of the Agreement including the Services provided, all expenditure reimbursed by the Purchaser and all payments made by the Purchaser.
- 11.2 The Provider shall on request afford the Purchaser or the Purchaser's representatives such access to those records as may be required by the Purchaser in connection with the Agreement.

12. CONFIDENTIALITY

- 12.1 Each party, its Personnel and any other person associated with either party shall keep confidential:-
- 12.1.1 the terms of this Agreement; and
 - 12.1.2 any and all Confidential Information that it may acquire in relation to any other party or Service User.
- 12.2 No party shall use or disclose the other party's Confidential Information, without prior written consent, except to persons and for the purpose of performing this Agreement,

or where disclosure is expressly permitted under this Agreement.

12.3 The Provider shall only use the Purchaser's Confidential Information for the purposes of this Agreement.

12.4 The Provider shall take reasonable steps to ensure the Purchaser's Confidential Information is only given to its Personnel, professional advisors or consultants as strictly necessary for the performance of this Agreement. The Provider shall ensure its Personnel, professional advisors or consultants are aware of the Provider's confidentiality obligations under this Agreement.

12.5 The obligations on a party set out in Clauses 12.1 to 12.4 shall not apply to any Confidential Information which:-

12.5.1 a party can demonstrate is or becomes public knowledge otherwise than by breach of this Agreement;

12.5.2 is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party;

12.5.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

12.5.4 is independently developed without access to the Confidential Information;

12.5.5 is required to be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000.

12.6 Nothing in this Clause shall prevent the Purchaser from:-

12.6.1 disclosing any Confidential Information for the purpose of:

12.6.1.1. the examination and certification of the Purchaser's accounts; or

12.6.1.2 any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Purchaser has used its resources; or

12.6.2 disclosing any Confidential Information obtained from the Provider:

12.6.2.1 to any government department or any other contracting authority. All government departments or contracting authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other contracting authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any contracting authority; or

12.6.2.2 to any person engaged in providing any services to the Purchaser for any purpose relating to or ancillary to this Agreement

provided that in disclosing information under sub-paragraph 12.6.2 the Purchaser discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that

a confidentiality undertaking is given where appropriate

- 12.7 The Provider shall ensure that its Personnel are aware of the Provider's confidentiality obligations under this Agreement.
- 12.8 In the event that the Provider fails to comply with this Clause, the Purchaser reserves the right to terminate the Agreement by notice in writing with immediate effect.
- 12.9 Information which the Service User wishes to be regarded as Confidential Information shall not be disclosed unless particular circumstances dictate otherwise, for example where there is prima facie evidence of a crime having been committed, or the information is directly relevant to the Services being provided or withholding the information would place Service Users or potential Service Users at risk, in which case the information must, in the first instance, be shared with the Purchaser.
- 12.10 As the security, safety and well-being of Service Users takes precedence over issues of confidentiality, where the Provider has received information that a Service User has been abused whilst in receipt of the Services or is at risk of abuse, the Provider shall report this immediately to the Purchaser and/or the police as appropriate and shall co-operate fully with any subsequent procedures. In the same way, where the Purchaser has received information that a Service User has been abused or is a risk of abuse, the Purchaser shall report this immediately to the police and/or other agencies with a responsibility for the protection of vulnerable groups.
- 12.11 This Clause shall survive termination of this Agreement indefinitely.

13. DATA PROTECTION

Definitions

For the purposes of this Clause, the following terms shall have the following meanings:

Agreed Purposes: the provision of Children's Residential Care Services;

Data Controllers in Common where both Parties are Controllers and process Personal Data under the Contract independently of the other;

Data Discloser: a party that discloses Shared Personal Data to the other party;

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 (SI 2003/2426) as amended and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications) and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party;

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

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer have the meaning given in the Data Protection Legislation;

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

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

DPA 2018: Data Protection Act 2018;

Joint Controllers or Joint Control where two or more entities are Controllers of the Personal Data and therefore jointly determine the purposes and means of processing;

Permitted Recipients: the parties to this Agreement, the employees of each party and any third parties engaged to perform obligations in connection with this Agreement;

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

Shared Personal Data: the Personal Data to be shared between the parties under Clause 13.1 of this Agreement being all personal and sensitive Personal Data as defined by UK GDPR which is routinely created and collected in the course of providing the Services for the Agreed Purposes.

UK GDPR: has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.

- 13.1 Clauses 13.2 to 13.11 inclusive set out the framework for the sharing of Personal Data between the parties as Controllers, either as Joint Controllers or Data Controllers in Common. Each party acknowledges that one party (referred to in this clause as the **Data Discloser**) will disclose to the other party Shared Personal Data collected by the Data Discloser for the Agreed Purposes.
- 13.2 Each party shall comply with the obligations imposed on a Controller under the Data Protection Legislation and any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this Contract with immediate effect.
- 13.3 Each party shall be responsible for meeting their obligations under the UK GDPR in providing information to any Data Subject in respect of whose Personal Data that Party is Controller.
- 13.4 Each party shall be responsible for responding to a Data Subject Request in relation to Personal Data for which it is Controller in compliance with UK GDPR.
- 13.5 Each party shall:

- 13.5.1 ensure that it has all necessary notices and consents and lawful bases in place to enable lawful transfer of the Shared Personal Data to the Permitted Recipients for the Agreed Purposes;
 - 13.5.2 give full information to any Data Subject whose Personal Data may be processed under this Agreement of the nature of such processing. This includes giving notice that, on the termination of this agreement, Personal Data relating to them may be retained by or, as the case may be, transferred to one or more of the Permitted Recipients, their successors and assignees;
 - 13.5.3 process the Shared Personal Data only for the Agreed Purposes;
 - 13.5.4 not disclose or allow access to the Shared Personal Data to anyone other than the Permitted Recipients;
 - 13.5.5 ensure that all Permitted Recipients are subject to written contractual obligations concerning the Shared Personal Data (including obligations of confidentiality) which are no less onerous than those imposed by this Agreement;
 - 13.5.6 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the other party, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data;
 - 13.5.7 not transfer any Personal Data received from the Data Discloser outside the UK unless the transferor ensures that (i) the transfer is to a country approved under the applicable Data Protection Legislation as providing adequate protection; or (ii) there are appropriate safeguards or binding corporate rules in place pursuant to the applicable Data Protection Legislation; or (iii) the transferor otherwise complies with its obligations under the applicable Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; or (iv) one of the derogations for specific situations in the applicable Data Protection Legislation applies to the transfer.
- 13.6 Each party shall provide reasonable assistance to the other party in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
- 13.6.1 consult with the other party about any notices given to Data Subjects in relation to the Shared Personal Data;
 - 13.6.2 promptly inform the other party in the event of receipt of a Data Subject Request in relation to Shared Personal Data;
 - 13.6.3 assist the other party, at the cost of the other party, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, Personal Data breach notifications, Data Protection Impact Assessments and consultations with the Information Commissioner or other regulators;

- 13.6.4 not disclose, release, amend, delete or block any Shared Personal Data in response to a Data Subject rights request without first consulting the other party wherever possible;
 - 13.6.5 at the written direction of the Data Discloser, delete or return Shared Personal Data and copies thereof to the Data Discloser on termination of this Agreement unless required by law to store the Shared Personal Data;
 - 13.6.6 promptly notify the other party if it receives any request, complaint or communication relating to that party's obligations under the Data Protection Legislation;
 - 13.6.7 promptly notify the other party if it receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - 13.6.8 promptly notify the other party if it receives a request from any third party for disclosure of Personal Data under the Agreement where compliance with such request is required or purported to be required by law; and
 - 13.6.9 promptly notify the other party if it becomes aware of a Data Loss Event or any breach of the Data Protection Legislation.
- 13.7 Each party shall comply with its obligation to notify a Personal Data Breach to the Information Commissioner's Office and, where applicable, Data Subjects, under the UK GDPR in respect of the Personal Data for which it is Controller, (having first liaised with the other party to agree which party shall notify the Personal Data Breach to the Information Commissioner's Office), and each party shall inform the other party of any Personal Data Breach irrespective of whether there is a requirement to notify the Information Commissioner's Office or Data Subject.
- 13.8 The parties agree to provide reasonable assistance to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.
- 13.9 The parties shall maintain complete and accurate records and information in respect of the Personal Data for which it is Controller in order to demonstrate compliance with this Clause and the Data Protection Legislation and to allow for audit of its Data Processing activity by the other party's designated auditor.
- 13.10 Each party shall, if relevant, be responsible for carrying out a Data Protection Impact Assessment in relation to the Personal Data for which it is Controller prior to commencing processing of such Personal Data, should that party consider it necessary, to ensure compliance with its obligations under the Data Protection Legislation with respect to Data Protection Impact Assessments.
- 13.11 Each party shall provide the other with contact details of at least one employee as a point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the procedures to be followed in the event of a Personal Data Breach, and the regular review of the parties' compliance with the Data Protection Legislation.

14. FREEDOM OF INFORMATION

- 14.1 The Provider acknowledges that the Purchaser is subject to the requirements of the Freedom of Information Act 2000 ('the FOIA') and shall assist and co-operate with the Purchaser (at the Provider's expense) to enable the Purchaser to comply with its information disclosure requirements.
- 14.2 The Provider shall:
- 14.2.1 transfer all requests for information to the Purchaser (where it is reasonably apparent that such are intended to be requests for information for the Purchaser) as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
 - 14.2.2 provide the Purchaser with a copy of any information in its possession or power in the form that the Purchaser requires within five Working Day (or such other period as the Purchaser may specify) of the Purchaser requesting that information; and
 - 14.2.3 provide all necessary assistance as reasonably requested by the Purchaser to enable the Purchaser to respond to a request for information within the time for compliance set out in Section 10 of the FOIA.
- 14.3 The Purchaser shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other information:
- 14.3.1 is exempt from disclosure in accordance with the provisions of the Code of Practice on the Discharge of Public Authorities' Functions under Part 1 FOIA; or
 - 14.3.2 is to be disclosed in response to a request for information.
- 14.4 In no event shall the Provider respond directly to a request for information unless expressly authorised to do so by the Purchaser.
- 14.5 The Provider acknowledges that the Purchaser may, acting in accordance with the Code of Practice on the Discharge of Public Authorities' Functions under Part 1 of the FOIA, be obliged to disclose Information:
- 14.5.1 without consulting with the Provider; or
 - 14.5.2 following consultation with the Provider and having taken its views into account.
- 14.6 The Provider shall ensure that all information produced in the course of this Agreement or relating to this Agreement is retained for disclosure and shall permit the Purchaser to inspect such records as requested from time to time.
- 14.7 The Provider acknowledges that any lists or schedules provided by it outlining Commercially Sensitive Information are of indicative value only and that the Purchaser may nevertheless be obliged to disclose Confidential Information in accordance with Clause 14.3.

15. WARRANTIES

- 15.1 The Provider warrants and represents to the Purchaser that:
- 15.1.1 it has the full capacity and authority to enter into and perform any Call-Off Contract entered into under this Framework Agreement, and that the Framework Agreement is executed by a duly authorised representative of the Provider;
 - 15.1.2 it shall perform the Services using reasonable care and skill with suitably qualified Personnel, to a standard which conforms to generally accepted industry standards and practice;
 - 15.1.3 it shall use all reasonable endeavours to achieve the outcomes in the Outcomes Framework in the Service Specification and that the outcomes shall be in accordance in all material respects with the Service Specification and accompanying documents;
 - 15.1.4 the Provider's Personnel shall have the necessary skills, professional qualifications and experience to perform the Services in accordance with the Service Specification and industry standards and practice, the Provider being responsible for all costs, fees, expenses, and charges for training necessary or required for the Provider to perform the Services;
 - 15.1.5 it has obtained all necessary and required licences, consents and permits to perform the Services;
 - 15.1.6 it is not in default in the payment of any due and payable taxes or in the filing, registration or recording or any document or under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under any Call-Off Contract;
 - 15.1.7 as at the commencement date of this Framework Agreement, all information, statements and representations contained in its tender are true, accurate and not misleading save as may have been specifically disclosed in writing to the Purchaser prior to the execution of this Framework Agreement and it will promptly advise the Purchaser of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading;
 - 15.1.8 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might affect its ability to perform its obligations under any Call-Off Contract which may be entered into with the Purchaser.
- 15.2 Each of the parties acknowledges that in entering into this Framework Agreement it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Framework Agreement and any Clauses, warranties or other terms implied by statute, common law or custom and practice are excluded from this Framework Agreement to the fullest extent permitted by law.

16. LIABILITY AND INDEMNITIES

- 16.1 Neither party excludes nor limits its liability to the other party for death or personal injury caused by its negligence or that of its Personnel, agents or sub-contractors, fraud by it or its Personnel or for any breach of obligation implied by Part 2 of the Supply of Goods and Services Act 1982.
- 16.2 The Provider shall indemnify the Purchaser fully against all claims, proceedings, actions, damages, legal costs, expenses and other liabilities arising out of or in connection with this Agreement, caused directly or indirectly by any act or omission of the Provider in providing the Services unless such injury, loss, damage, cost or expense is caused by the negligence or wilful misconduct of the Purchaser.
- 16.3 Subject to Clauses 16.1 and 16.2, neither party shall be liable to the other in any event for any loss of profits, turnover, business opportunities, damage to goodwill or anticipated savings and/or indirect or consequential loss or damage.
- 16.4 The Purchaser shall not, under any circumstances, be liable for any damage to the Provider's property or Premises.
- 16.5 The parties expressly agree that if any limitation or provision contained or expressly referred to in this Clause 16 is held to be invalid under any law, it shall be deemed omitted to that extent, and if any party becomes liable for loss or damage to which that limitation or provision applied, that liability shall be subject to the remaining limitations and provisions set out in this Clause 16.
- 16.6 Nothing in this Clause 16 shall act to reduce or affect a party's general duty to mitigate its loss.

17. INSURANCE

- 17.1 The Provider shall at all times effect and maintain appropriate insurance policies with a reputable insurer in relation to the provision of the Services.
- 17.2 Public liability insurance shall be maintained in such sum as is deemed prudent in all the circumstances by the Provider and in any event with a minimum level of indemnity of £10 million for any one claim.
- 17.3 Employers' liability cover shall be maintained with a minimum of £10 million for any one claim, covering all Personnel and including volunteers and others acting under the direction and control of the Provider.
- 17.4 The Provider will also insure and will maintain such insurance and pay any resulting premiums, in the minimum sum of:
- i) Professional indemnity – a minimum of £2 million in respect of any one claim, to remain in place for a twelve year period following the termination or expiry of the Framework Agreement.
 - ii) Malpractice: rendering or failure to render health care by a health care professional, if relevant to the Services. Minimum of £2 million in respect of any one claim, to remain in place for a six year period following the termination or expiry of the Framework Agreement.

- iii) Residents' Effects Cover – a minimum of £1500 in respect of any one claim for each Service User.
- iv) Motor - the Provider and its Personnel shall have in place motor vehicle insurance commensurate with the potential liabilities of the Provider relating to the operation of vehicles used for the transport of Service Users and their visitors.

17.5 The Provider shall produce evidence of the insurances in force before commencement of the Services, and as subsequently required by the Purchaser. A copy of the insurance documents shall be submitted to the Contracts Officer.

17.6 If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by this Clause, the Purchaser may make alternative arrangements to protect its interests and may recover the reasonable costs of such arrangements from the Provider. Such failure may be regarded as a serious breach of this Agreement.

17.7 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under this Agreement.

17.8 For the avoidance of doubt, minimum insurance levels shall not be a limit of liability under the Agreement.

18. ASSIGNMENT AND SUB-CONTRACTING

18.1 The Provider shall not transfer, assign or sub-contract directly or indirectly to any person or organisation any part of this Agreement without the previous written permission of the Purchaser.

18.2 Sub-contracting any part of this Agreement shall not relieve the Provider of any obligation or duty attributable to the Provider under this Agreement.

18.3 The Provider shall be responsible for the acts and omissions of its sub-contractors as though they are its own.

18.4 Any such permitted transfer, assignment or sub-contracting shall be on the same terms as this Agreement, unless otherwise agreed between the parties.

18.5 The Purchaser shall be entitled to assign the benefit of the Agreement or any part and shall give written notice of any assignment to the Provider.

18.6 The Purchaser shall be entitled to novate this Agreement to any statutory successor which substantially performs any of the functions that the Purchaser previously performed.

19. RIGHTS OF THIRD PARTIES

19.1 In accordance with the Contracts (Rights of Third Parties) Act 1999, a person who is not a party to this Agreement shall not have any rights under or in connection with it.

20. DISCRIMINATION

20.1 The Provider shall at all times operate a policy of equal opportunity in both staffing recruitment and service delivery. The Provider shall be required to forward a copy of

this policy to the Purchaser when required and demonstrate its operation in the performance of the Services.

- 20.2 The Provider shall not unlawfully discriminate in the provision of the Services either directly or indirectly on such grounds as race, colour, ethnic or national origin, culture and linguistic background, disability, gender or sexual orientation, pregnancy and maternity, gender reassignment, marriage and civil partnership, religion or belief or age and, without prejudice to the generality of the foregoing, shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant legislation.
- 20.3 The Provider shall take all reasonable steps to secure the observance of this Clause by all Personnel engaged in the Services.
- 20.4 In the event of a finding of discrimination being made by any court or employment tribunal against the Provider or any sub-contractor appointed by the Provider during the performance of the Services, or of an adverse finding in any formal investigations by the Equality and Human Rights Commission during the performance of the Services, the Provider shall inform the Purchaser of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.
- 20.5 The Provider shall indemnify the Purchaser in respect of any claims against the Purchaser which arise by reason of the Provider's breach of the legislation referred to in Clause 20.2 where such breach arises in the performance of its obligations under this Agreement.
- 20.6 The Provider may be required to answer questions raised by the Purchaser on matters referred to in this Clause.

21. MENTAL CAPACITY

- 21.1 The Provider shall comply at all times with the requirements of the Mental Capacity Act 2005 ('the Act') and the Deprivation of Liberty Safeguards (and any replacement of the same) in the provision of the Services.

22. HUMAN RIGHTS ACT 1998

- 22.1 The Provider shall, at all times when providing the Services act in a way that is compatible with the Convention Rights within the meaning of Section 1 of the Human Rights Act 1998.
- 22.2 The Provider shall at all times in its performance of the Services and its treatment of children have regards to and abide by the principles of the Children Act 1989.
- 22.3 The Provider will have a clear policy and procedure in relation to children's rights that complies with:
- 22.3.1 The Children Act 1989 as amended from time to time;
- 22.3.2 The UN Convention on the Rights of the Child (Article 12);
- 22.3.3 The National Standards for The Provision of Children's Advocacy Services 2003;
- 22.3.4 Working Together to Safeguard Children 2018.

and shall provide the Purchaser with a copy of the policy and updates as requested.

- 22.4 The policy and procedure will be made clear to Personnel via induction, training and development, meetings and supervision.
- 22.5 The Provider will ensure that information is designed with participation of Service Users and is produced in a variety of ways to ensure that the needs of Service Users with specific needs are met e.g. Braille, audio tapes, different languages, pictures and symbols.
- 22.6 The Purchaser shall be empowered to suspend the provision of the Services or part thereof in the event of non-compliance with this Clause by the Provider. The Provider shall not resume provision of the Services or such part until the Purchaser is satisfied that the non-compliance has been rectified.

23. HEALTH AND SAFETY

- 23.1 The Provider shall comply with the Health and Safety at Work etc Act 1974, and any other acts, orders and regulations and codes of practice relating to health and safety in regards to the Premises used for the Services and in the performance of the Services, including the Manual Handling Operations Regulations 1992 as amended, and are required to operate written policies which demonstrate such compliance.
- 23.2 The Provider's Premises shall conform to all requirements of the Chief Fire Officer and the requirements of the Regulation Reform (Fire Safety) Order 2005 and the Provider shall carry out a fire risk assessment to ensure Service Users are adequately protected against fire at all times.
- 23.3 The Purchaser shall be empowered to suspend the provision of the Services or part thereof in the event of non-compliance by the Provider with its legal duties in health and safety matters. The Provider shall not resume provision of the Services or such part until the Purchaser is satisfied that the non-compliance has been rectified.
- 23.4 The Purchaser places great emphasis on compliance with both the letter and spirit of health and safety legislation and expects full co-operation by the Provider with all statutory bodies including Environmental Health.
- 23.5 The Provider shall promptly notify the Purchaser of any health and safety hazards or any incident which causes personal injury or damage which may arise in connection with the performance of the Services.

Transport

- 23.6 For any transport (excluding public transport), provided for Service Users, whether directly or via another agency the Provider must ensure that:
- i) the driver and/or escort have a current enhanced DBS clearance which includes the Protection of Children Act (POCA) and is re-checked a minimum of every three years, a valid licence and current vehicle insurance appropriate to the Services being provided. The number of passengers must never exceed the insured or licensed maximum.
 - ii) the vehicle(s) (and any additional equipment on the vehicle) is/are maintained and serviced in accordance with the manufacturer's instructions with full records being

- kept to verify this and must have a current MOT certificate and road tax if appropriate.
- ii) the vehicle(s) is/are suitable for the type and condition of passengers to be carried, including having seat belts or personal restraints which conform to the relevant British Standard/EU Standard and which are used in all instances.
 - iv) the vehicle(s) is/are always driven safely and with consideration to passengers' needs. This includes conforming to all road traffic legislation and never driving whilst under the influence of any amount of alcohol, drugs or medication.
 - v) the driver must always be properly trained in handling the type of vehicle and the nature of the passengers to be carried. The latter will not apply if a suitable escort is provided.
 - vi) All vehicles will carry a first aid kit that conforms to legislation. Fire extinguishers will also be carried on the vehicles and these will be maintained in accordance with the manufacturer's instructions.
 - vii) In the event of the breakdown of a vehicle or the sickness of a driver it will be the responsibility of the Provider to provide a replacement vehicle and/or driver in order to ensure continuation of the Services. Such replacement vehicle will be of the standard stipulated by the Purchaser.
 - viii) Service Users using the Purchaser's or Providers transport must be securely fastened in a seat or harness appropriate to their age, size and weight. Only seats and harnesses conforming to the United Nations standard, ECE Regulation 44.04 (or 44.03) or to the new i-size regulation, R129 will be considered appropriate for use. Second-hand equipment will not be used unless its history is known and it has full instructions so that it can be fitted and used correctly. The seat or harness must be appropriate for the vehicle in which it is used and be fitted in accordance to the manufacturer's instructions. If Service Users are to be carried in a four door car then 'child proof' locks must be used.

24. SERVICE PROVISION

- 24.1 The Provider shall perform the Services in accordance with the principles of the Purchaser's 'Corporate Privacy, Dignity and Respect' Framework. Full details of the Framework can be accessed through the Purchaser's website.
- 24.2 If applicable to the Services the Provider shall adhere to the requirements of the Autism Act 2009 which provides a statutory framework to improve the provision of Services to meet the needs of children with autistic spectrum conditions.

25. SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

- 25.1 The Provider shall fully adopt and implement the Pan-Dorset Safeguarding Children Partnership (PDSCP) policies and procedures, these can be found in <http://pandorsetscb.proceduresonline.com/contents.html>. The Provider shall follow and fully implement the prescribed procedures in relation to safer recruitment in the PDSCP i.e http://pandorsetscb.proceduresonline.com/g_safe_rec.html and all other child safeguarding procedures as they have been or may be amended from time to time. The Provider shall evidence compliance with these procedures.

25.2 Where it relates to the Services provided, the Provider shall comply with the requirements of the Dorset Multi-Agency Safeguarding Adults Policy and Procedures, these can be found at: <https://www.dorsetcouncil.gov.uk/care-and-support-for-adults/dorset-safeguarding-adults-board/dorset-safeguarding-adults-board.aspx>.

25.3 The Provider shall fully comply with the Safeguarding Standards for Children's Contracted Services and review its safeguarding policy and procedures when the Purchaser notifies the Provider it is updated.

26. SERVICE USER AND CARER INVOLVEMENT

26.1 Service Users and carers shall be involved in all decisions which affect the provision of the Services and, where possible, in the planning of the delivery of the Services.

27. QUALITY ASSURANCE AND CONTROL

27.1 The Provider shall adhere to the standards of service detailed in the Service Specification.

27.2 The Provider shall demonstrate compliance with its obligations under this Agreement and maintain a quality control programme in accordance with the Service Specification. This must include individual service user feedback processes using formats which are accessible to all Service Users. Information must be made available to the Purchaser in respect of all aspects of contract compliance and quality control on request. Particular emphasis will be placed on the following areas:

- a) Recruitment, selection, management of Personnel, supervision and training.
- b) Service provision and outcomes. The Provider shall achieve the measurable outcomes specified in the Outcomes Framework in the Service Specification (Schedule 1) and demonstrate forward planning and consistency of delivery.
- c) Representation and the handling of Service User complaints.
- d) Policies and procedures operated by the Provider and resultant practices within the Provider's organisation.

27.3 For the avoidance of doubt, nothing in this Agreement is intended to prevent the Provider from achieving higher quality standards than those required by this Agreement and/or any regulator and the Provider shall make all reasonable efforts to comply with all best practice guidance in relation to the provision of the Services.

28. COMPLAINTS/REPRESENTATIONS

28.1 The Provider shall establish and implement a procedure for examining Service Users' and carer complaints regarding the Services. Service Users and carers must be informed of the means of registering a complaint. The procedure shall confirm how complaints are dealt with, a time scale for responses and how Service Users' are informed of the outcome of a complaint.

28.2 The complaints procedure adopted by the Provider shall recognise the difficulty some Service Users may feel in raising a complaint because of their age and potential vulnerability. The procedure shall ensure that Service Users and their carers are encouraged and facilitated to make complaints through a range of methods with representation if necessary.

28.3 The Provider shall maintain a confidential log of complaints showing:

- The name and address of the Service User;
- The name and address of the complainant (if different);
- The nature of the complaint;
- The response to the complaint and the time taken to respond; and
- The level of satisfaction of the complainant.

The log of complaints shall be accessible to the Purchaser on request. In addition, the Provider must supply to the Purchaser an analysis of complaints and their outcomes, if requested.

- 28.4 Where a complaint remains unresolved, it shall be recorded in the Provider's log book and a copy of the record shall be forwarded to the Purchaser's Contracts Officer within two days of the Service User or their carer notifying the Provider that they remain unsatisfied.
- 28.5 Where a Service User or their carer remains dissatisfied following a complaint, the Provider shall inform the Service User of the Children's Services Directorate's complaints procedure operated by the Purchaser, which may then be instigated if the Service User so wishes.
- 28.6 The Provider shall also notify Service Users and, if applicable their carer, that they may, if they wish, complain directly to the Purchaser's Complaints Team without going through the Provider's own complaints procedure. Please find details of this at: <https://www.dorsetcouncil.gov.uk/your-council/complaints-to-dorset-council.aspx>
- 28.7 The Provider and its Personnel shall co-operate fully with the Purchaser in investigating and resolving complaints and every endeavour shall be made to improve the Services in the light of valid complaints in order to minimise complaints and reduce the likelihood of future complaints.
- 28.8 Complaints shall be an item for discussion at contract review meetings.

29. CONTRACT MANAGEMENT AND MONITORING ARRANGEMENTS

- 29.1 The Provider shall take appropriate steps (which may include one or more contract implementation meetings) with the Purchaser to confirm the preferred communication and other procedures at the outset of the Agreement.
- 29.2 The Provider shall promptly give notice to the Purchaser of the identity of the Provider's Contract Manager appointed to manage the Services and any replacement for them. Any Contract Manager shall be appropriately qualified and/or experienced for their responsibilities in relation to the Services.
- 29.3 The Purchaser shall monitor Agreement compliance, all financial and operational aspects of the Services and the standards of the Services provided with particular emphasis on quality.
- 29.4 The Contracts Officer shall be responsible for arranging and/or carrying out the monitoring of the Services using various approaches depending on the purpose of the monitoring, e.g. routine monitoring visit, contract review meeting, or a visit instigated as a result of a specific concern regarding the quality of the Services being provided by the Provider.

29.5 In relation to the Purchaser's visits:

29.5.1 For planned visits such as routine monitoring and routine follow-up visits, the Provider shall be contacted in advance of the monitoring visit. If the suggested time and date is not convenient, the Provider shall contact the Contracts Officer without delay to arrange a mutually convenient time.

29.5.2 All other visits shall be carried out by the Purchaser without giving prior notice to the Provider. Unannounced visits shall include visits in response to Safeguarding referrals or complaints registered with the Purchaser.

29.6 In relation to contract review meetings, these shall be held as and when requested as specified within the Service Specification, between the Provider's Contract Manager and/or other representatives and the Purchaser's Contracts Officer. The purpose of these meetings shall be to:-

(i) monitor, review and evaluate the performance of the Provider against the Service Specification;

(ii) evaluate and review the information reported by the Provider in accordance with the Service Specification.

(iii) ensure that the data to be produced in accordance with the Service Specification has been reported accurately and that targets have been achieved. If not achieved, a plan of action shall be agreed between the parties.

(iv) measure the outcomes against the Outcomes Framework in the Service Specification and discuss and identify areas for improvement or more focus;

(v) provide an opportunity for the Provider and the Purchaser to openly discuss any areas for future development, gaps in provision, current barriers to success, etc.

29.7 Where there are areas of non-compliance with the terms of this Agreement, the Provider shall be notified in writing in accordance with Clause 30.

29.8 The Provider shall comply with all records and monitoring requirements, as specified in this Agreement and the Service Specification.

29.9 Any costs incurred by the Provider in attending any meetings shall be at the Provider's expense.

29.10 The Provider shall ensure that the Purchaser and/or their representatives or agents have unrestricted access to the Services in order to benchmark, inspect, review and assess service delivery.

30. AGREEMENT NON-COMPLIANCE

30.1 For the purposes of this Clause, 'Agreement Non-Compliance' means that in the opinion of the Purchaser, the Provider has failed either in whole or in part to comply with the terms of this Agreement or any Call-Off Contract awarded under it.

30.2 Agreement Non-Compliance may be:

- 30.2.1 'Cautionary Non-Compliance' meaning that in the opinion of the Purchaser, there has been a material breach of the Agreement or any Call-Off Contract awarded under it (but it does not amount to Serious Non-Compliance or Unacceptable Non-Compliance);
 - 30.2.2 'Serious Non-Compliance' meaning that in the opinion of the Purchaser there is Agreement Non-Compliance which places a service user at serious risk to their physical, mental or emotional wellbeing;
 - 30.2.3 'Unacceptable Non-Compliance' meaning that in the opinion of the Purchaser there is Agreement Non-Compliance which places a Service User at unacceptable risk to their physical, mental or emotional well-being which for the avoidance of doubt shall amount to a fundamental breach of the Agreement.
- 30.3 Where the Purchaser is satisfied through the contract monitoring process or by any other means (which shall be at the discretion of the Purchaser) that Agreement Non-Compliance has occurred, the Provider shall be informed at the earliest opportunity.
- 30.4 Where the Purchaser is satisfied that there has been Agreement Non-Compliance the Purchaser shall:
- 30.4.1 make an assessment of the severity of the Agreement Non-Compliance and, if relevant, the risks or potential risks to Service Users; and
 - 30.4.2 if the Purchaser identifies risks or potential risks to Service Users, carry out an investigation. For the avoidance of doubt and at the Purchaser's discretion, the investigation may include a risk assessment of Service Users in receipt of the Services funded by the Purchaser; and
 - 30.4.3 categorise the Agreement Non-Compliance as:
 - 30.4.3.1 'Unacceptable Non-Compliance'; or
 - 30.4.3.2 'Serious Non-Compliance'; or
 - 30.4.3.3 'Cautionary Non-Compliance'.
- 30.5 If Agreement Non-Compliance is categorised as Unacceptable Non-Compliance, notice may be served by the Purchaser on the Provider terminating the Agreement with immediate effect by notice to the Provider.
- 30.6 If Agreement Non-Compliance amounts to Serious Non-Compliance then the Purchaser shall suspend the Agreement with immediate effect by notice to the Provider until such time as in the opinion of the Purchaser the Serious Non-Compliance has been remedied. This shall not prevent the Purchaser taking alternative action at its discretion to remedy the Non-Compliance in accordance with the terms of this Agreement.
- 30.7 Otherwise than when Agreement Non-Compliance amounts to Unacceptable Non-Compliance, the Provider shall be given a reasonable period of time as determined by the Purchaser and notified to the Provider to remedy the Agreement Non-Compliance.
- 30.8 If the Agreement Non-Compliance amounts to Cautionary Non-Compliance or Serious Non-Compliance, and the Provider fails to remedy the Non-Compliance to the satisfaction of the Purchaser within such reasonable time period as is notified to

the Provider under Clause 30.7, then the Purchaser shall be entitled to terminate the Agreement with immediate effect by notice to the Provider.

- 30.9 If Serious Non-Compliance and/or Cautionary Non-Compliance occur on more than three occasions the Purchaser may at its discretion terminate the Agreement immediately by notice to the Provider.
- 30.10 The Purchaser reserves the right to implement a Cautionary Non-Compliance or Serious Non-Compliance in relation to any pending child or adult protection referrals made under the multi-agency child or adult protection processes as a reasonable means to safeguard the welfare of any Service Users.
- 30.11 Notwithstanding the foregoing, in the event that the Purchaser reasonably considers that there has been Agreement Non-Compliance, then the Purchaser may, without prejudice to, and in addition to, its rights under this Clause and Clause 36, do any of the following:
- 30.12.1 Make such deduction from the Contract Price to be paid to the Provider as the Purchaser shall reasonably determine to reflect the sums paid or sums which would otherwise be payable in respect of such of the Services as the Provider shall have failed to provide or performed inadequately which shall include in the event of the suspension under Clause 30.6;
- 30.12.2 Without terminating this Agreement itself provide or procure the provision of part of the Services until such time as the Provider shall have demonstrated to the reasonable satisfaction of the Purchaser that the Provider will be able to perform such part of the Services in accordance with the Agreement.
- 30.12.3 Without terminating the whole of the Agreement, terminate the Agreement in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself provide or procure a third party to provide such a part of the relevant Services.
- 30.13 The Purchaser may charge to the Provider any cost in respect of the provision of such part of the relevant Services by the Purchaser or by a third party to the extent that such costs exceed the Contract Price which would otherwise have been payable to the Provider for such part of the relevant Services.

31. RESOLUTION OF DISPUTES

- 31.1 It is the intention of the parties to settle amicably by negotiation all disagreements and differences on matters relating to this Agreement or the provision of the Services.
- 31.2 In the event that any disagreement or difference of opinion arises out of this Agreement which cannot be resolved by the Purchaser's Contracts Officer and the Provider's representative, the matter shall be dealt with as follows:
- 31.2.1 the contract managers for the Purchaser and the Provider shall meet to seek resolution. In the event that they do not meet within ten Working Days of the date on which either party convenes a meeting to resolve the matter or should they not be able to resolve the matter within ten Working Days of the first meeting, the matter shall be promptly referred to the Purchaser's

Director of Children's Services and the Provider's Chief Executive (or equivalent) or their respective nominee for resolution.

- 31.2.2 if within fourteen Working Days of the matter having been referred for resolution in accordance with Clause 31.2.1 no agreement has been reached as to the matter in dispute, the parties shall thereafter seek to determine the matter in dispute by adopting the procedure set out below.
- 31.3 An independent expert shall be appointed by agreement between the parties. The parties shall promptly furnish to such expert all information relating to the dispute to enable them to give a decision as to what course of action in his reasonable opinion ought to be followed to give an outcome equitable to the parties taking into account the respective rights and obligations of the parties.
- 31.4 The decision of the expert shall be final and binding on the parties.
- 31.5 The parties shall share equally the fees and expenses of the expert unless the expert directs otherwise.
- 31.6 Alternatively, the parties may agree to refer the matter for decision to arbitration whereupon the parties shall comply with the following provisions:
- 31.6.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996;
- 31.6.2 the arbitration fees shall be met by the Purchaser and the Provider in equal shares;
- 31.6.3 the decision of the arbitrator shall be binding on the parties.

32. LEGAL/OMBUDSMAN PROCEEDINGS

- 32.1 On written request from the Purchaser, the Provider or any of its Personnel, agents, officers or sub-contractors shall provide to that Purchaser all relevant information (including but not limited to documentation and statements from any Personnel, agent, officers or sub-contractor) and shall co-operate fully with and provide assistance and give evidence in connection with:
- 32.1.1 any legal or quasi-legal inquiry, arbitration or court proceedings in which the Purchaser may become involved; or
- 32.1.2 any internal Purchaser disciplinary hearing arising out of or in connection with the Services or these Clauses;
- 32.1.3 any investigation by the Local Government and Social Care Ombudsman.

33. STATUTORY FUNCTIONS

- 33.1 Nothing in the Agreement or these Clauses shall be read as preventing or inhibiting the Purchaser from carrying out any such statutory or regulatory duty as each may respectively be under, or as derogating therefrom, or as inhibiting or fettering the exercise of any statutory or regulatory power which either may respectively possess.

34. INTELLECTUAL PROPERTY

- 34.1 Neither Party shall acquire the intellectual property rights of the other.
- 34.2 The Provider shall not use the Purchaser's logo without prior consent.

35. PUBLICITY

- 35.1 The Provider shall seek written approval from the Purchaser prior to the publication of any publicity where the Purchaser is acknowledged.

36. SEVERANCE

- 36.1 If any Clause of this Agreement is declared by any judicial or other competent authority or considered by the parties to be void, voidable, illegal or otherwise unenforceable:
 - 36.1.1 The parties shall amend that provision in such reasonable manner as mutually agreed.
 - 36.1.2 At the discretion of the parties it may be severed from this Agreement and the remaining Clauses of this Agreement shall except whether otherwise provided remain in full force and effect unless otherwise terminable.

37. TERMINATION

- 37.1 The Purchaser may by notice in writing to the Provider terminate this Agreement as from the date of service of such notice if-
 - 37.1.1 the Provider passes a resolution or a court makes an order that the Provider be wound up otherwise than for the purpose of a bona fide solvent reconstruction or amalgamation; or
 - 37.1.2 circumstances exist which entitle a court or a creditor to appoint a receiver, manager or administrator or which entitle a court otherwise than for the purpose of a bona fide solvent reconstruction or amalgamation to make a winding-up order regarding the Provider; or
 - 37.1.3 the Provider undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988, which impacts adversely and materially on the performance of the Services; or
 - 37.1.4 the Provider becomes the subject of a voluntary arrangement under section 1 of the Insolvency Act 1986.
 - 37.1.5 the Provider has a receiver, manager, administrator, or administrative receiver appointed over all or any part of its undertakings, assets or income, or has passed a resolution for its winding up;
 - 37.1.6 the Provider has a petition presented to any court for its winding up or for an administration order;
 - 37.1.7 the Provider is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986;

- 37.1.8 the Provider suffers any distraint, execution or other process to be levied or enforced on any of its property by any third party and is not paid out, withdrawn or discharged within 7 days;
 - 37.1.9 the circumstances specified in Clause 38 arise;
 - 37.1.10 the Provider has become bankrupt or makes a composition or arrangement with its creditors, or has a proposal in respect of the business for voluntary arrangements for a composition of debts or scheme of arrangement approved in accordance with the Insolvency Act 1986; or
 - 37.1.11 the Provider has been convicted of a criminal offence or act of grave misconduct in the conduct of its business within the meaning of Regulation 57(8)(c) of the Public Contracts Regulations 2015; or
 - 37.1.12 the Provider has failed to comply with any obligations relating to the payment of any taxes or social security contributions.
- 37.2 The Purchaser may only exercise its right under Clause 37.1.3 within six months after a change of control occurs and shall not be permitted to do so where it has agreed in advance to the particular change of control that occurs. The Provider shall notify the Contracts Officer immediately any change of control occurs.
- 37.3 Either the Purchaser or the Provider may at any time by notice in writing to the other party terminate this Agreement as from the date of service of such notice whenever any of the following events occurs:
- 37.3.1 the other party commits a material breach of any of its obligations under or in relation to this Agreement which is not capable of remedy or, if capable of remedy, is not remedied within 30 days after receipt of written notice from the non-breaching party of its intention to terminate; or
 - 37.3.2 the other party is continually in breach or commits a series of repeated breaches of this Agreement, which cannot be remedied with 30 days of written notice from the non-breaching party of its intention to terminate.
- 37.4 The Purchaser may terminate the Agreement with immediate effect:
- 37.4.1 in accordance with Clause 30; or
 - 37.4.2 if in the Purchaser's reasonable opinion continuation of the Agreement would cause risk to the life, health or well-being of any Service User or potential Service User; or
 - 37.4.3 if the Provider has for any reason had their registration cancelled with OFSTED or CQC or has failed to remedy, following a reasonable period set by the Purchaser, any issues highlighted by those regulators which deem the service inadequate.
- 37.5 The parties may terminate this Agreement at any time on giving to the other not less than 3 months' notice in writing.
- 37.6 In any case where immediate termination is permitted, the Purchaser may, at its discretion, initially suspend the Agreement or any Call-Off Contract.

- 37.7 The termination or expiry of the Framework Agreement will not automatically terminate any Call-Off Contract awarded under it provided neither party is in default of its obligations under the Framework Agreement.
- 37.8 An Individual Placement Agreement under a Call-Off Contract may be terminated in accordance with the provisions of Clause 53.
- 37.9 The termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of either party accrued at or prior to termination and subject thereto neither party shall have any further obligations to the other under this Agreement. The Clauses of this Agreement which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.

38. PREVENTION OF CORRUPTION

- 38.1 The Purchaser shall be entitled to terminate the Agreement immediately and recover from the Provider the amount of any loss or damage resulting from such cancellation if, in relation to this Agreement or any contract with the Purchaser, the Provider or any person employed by them or acting on his behalf shall have committed:-
- 38.1.1 any fraud
- 38.1.2 an offence under the Bribery Act 2010 or shall have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

39. CONSEQUENCES OF SUSPENSION OR TERMINATION

- 39.1 Following termination by the Purchaser of this Agreement, the Provider shall be entitled to such proportion of the Contract Price as represents a fair and reasonable value of that part of the Services carried out up to the date of termination provided always that the Purchaser reserves the right to deduct from any such sum the amount of any claim the Purchaser may have in respect of any breach and / or failure by the Provider to perform its obligations under this Agreement.
- 39.2 The Purchaser shall not in any circumstances be liable to the Provider for any losses or expenses arising out of termination or suspension, and no payment shall be due from the Purchaser under this Agreement during any period of suspension.
- 39.3 Where the Purchaser terminates or suspends the Agreement or any Call-Off Contract as a consequence of a breach by the Provider, the Purchaser shall be entitled to recover from the Provider:
- 39.3.1 any costs (including any administration costs) reasonably incurred by the Purchaser in respect of the supply of any part of the Services by the Purchaser or a third party; and
- 39.3.2 the amount of any other loss (including any administration costs) incurred by the Purchaser as a result of having to suspend or terminate the Agreement.

The Purchaser shall take all reasonable steps to mitigate any additional expenditure.

- 39.4 The Provider shall upon the termination of the Agreement immediately deliver up to the Purchaser all correspondence, documents and other property belonging to the Purchaser which may be in its possession or under its control.

39.5 The provisions of this Clause shall survive the termination or expiry of this Agreement.

40. FORCE MAJEURE

40.1 Neither party shall be liable for any delay in, or non-performance of, any obligation under the Agreement (other than the payment of money) caused by an event beyond the reasonable control of that party including but not limited to acts of God, war, explosion, fire, strike, flood, riot, pandemic, epidemic or civil commotion or any act or omission of the other party, or a force majeure event affecting a supplier, sub-contractor or a third party.

40.2 In the event such circumstances persist beyond a reasonable period given the nature of the event and its effect on the obligations under this Agreement, then the other party shall have the right, for so long as the circumstances which prevent performance continue, to terminate this Agreement by giving not less than 30 (thirty) Working Days' written notice to the other party.

41. LAW AND JURISDICTION

41.1 This Agreement shall be governed by and construed in accordance with English law and each party agrees to submit to the exclusive jurisdiction of the English Courts.

41.2 This Agreement is binding on the Purchaser and the Provider, their successors and assignees.

42. CHANGE IN LAW

42.1 The Provider shall neither be relieved of its obligations to perform its obligations under this Agreement and any Call-Off Contract nor be entitled to an increase in the Contract Price and/or any charges payable as a result of a change in law, if the change and its effect are known at the commencement of the Agreement.

42.2 If a change in law occurs or is shortly to occur which will significantly affect the provision of the Services or the cost of doing so, the Provider shall notify the Purchaser to express an opinion of the likely effects of the change including:-

42.2.1 whether any change is required to the Services, the Contract Price or this Agreement; and

42.2.2 whether the Provider requires any relief from compliance with its obligations.

42.3 If the parties to this Agreement agree upon the effects of the change in law and any financial consequences such agreement shall be implemented through the variation provisions of Clause 8.

42.4 In the case of any dispute arising under this Clause, it shall be resolved in accordance with Clause 31.

43. CONFLICT OF INTEREST

43.1 The Provider shall use reasonable endeavours to ensure that it and any of its Personnel, agents, suppliers or sub-contractors are not placed in a position where in the reasonable opinion of the Purchaser there is or may be an actual or potential

conflict between the pecuniary or personal interests of the Provider and others and the duties owed to the Purchaser under the provisions of the Agreement. The Provider shall immediately disclose to the Purchaser full particulars of any such conflict of interest which may arise.

43.2 Where such a conflict does arise the Provider shall take such reasonable steps as are required by the Purchaser for ending or avoiding the actual or potential conflict of interest or alleviating its effect. If the Provider fails to comply or is unable to comply with such measures, then the Purchaser shall have the right by notice in writing to terminate this Agreement immediately. If the Purchaser terminates this Agreement in accordance with this Clause, it shall reimburse the Provider against any commitments, liabilities or expenditure incurred or to be incurred which are reasonably and properly payable by the Provider in connection with the Services. However, it is expressly agreed that the Purchaser shall not be liable to pay any severance payment or compensation to the Provider for loss of profits.

43.3 The provisions of this Clause shall apply during the continuance of the Agreement and for a period of two years after its termination.

44. RIGHT OF SET OFF

44.1 Without prejudice to any other rights and remedies available to it, the Purchaser shall be entitled to set off all or any of its liabilities to the Provider against all or any of the Provider's liabilities to it, and any liability, damage, loss, charge or expense which the Purchaser has incurred in consequence of any breach by the Provider of its obligations under the Agreement.

45. LOCAL HEALTHWATCH

45.1 In accordance with the provisions of the Local Government and Public Involvement in Health Act 2007 as amended by the Health and Social Care Act 2012, the Provider shall allow members of the Local Healthwatch to inspect Services commissioned by the Purchaser under this Agreement.

46. TUPE

46.1 At any time during the last six months of the Contract Period, the Provider shall provide to the Purchaser within 20 Working Days of a written request such information as the Purchaser may reasonably require in respect of TUPE.

46.2 The Provider shall comply with its obligations under Clause 12 in relation to any information supplied under Clause 46.1.

46.3 The Provider shall permit the Purchaser to use the information for the purposes of TUPE and re-tendering.

46.4 If TUPE applies on termination of this Framework Agreement or any Call-Off Contract then:

46.4.1 the Provider agrees to indemnify the Purchaser fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision of the information under Clause 46.1;

46.4.2 the Provider agrees to indemnify the Purchaser from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities in connection with or as a result of any claim or demand by any Personnel or other personnel or person claiming to be an employee on any date upon which the Framework Agreement or any Call-Off Contract is terminated and/or transferred to any third party ('Relevant Transfer Date') arising out of their employment or its termination whether such claim or claims arise before or after the Relevant Transfer Date.

46.5 In the event that the information provided by the Provider in accordance with Clause 46.1 becomes inaccurate, whether due to changes to the employment and personnel details of the affected Personnel made subsequent to the original provision of such information or by reason of the Provider becoming aware that the information originally given was inaccurate, the Provider shall notify the Purchaser of the inaccuracies and provide the amended information within 10 Working Days.

46.6 The provisions of this Clause shall apply during the continuance of this Framework Agreement and any Call-Off Contract and indefinitely after its termination.

47. NOTICES

47.1 Any notice to be given under this Agreement shall be in writing and shall be hand delivered or sent by first class mail to the address of the Provider or the Purchaser at the address set out at the head of this Agreement or such other address as that party may from time to time notify to the other party in accordance with this Clause.

47.2 Provided the notice sent as above is not returned as undelivered it shall be deemed to have been received:

47.2.1 if delivered by hand before 4pm on a Working Day, at the time of delivery, otherwise receipt shall be deemed to occur at 9am on the next following Working Day; or

47.2.3 if delivered by first class inland mail, two Working Days after the day of posting.

47.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left or that the envelope containing the notice was properly addressed and posted.

47.4 Notice shall not be given by email.

48. RECOVERY OF SUMS DUE

48.1 Whenever any sum of money is recoverable from, or payable by, the Provider, the Purchaser may unilaterally deduct that sum from any sum then due or which at any later time may become due to the Provider under any other contract with the Purchaser.

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

49. IR35 RULES AND EMPLOYMENT STATUS

49.1 The Provider agrees to notify the Purchaser as soon as reasonably practicable in the

event of a change in the employment status of the Provider during the period of the Agreement within the meaning of Part 2 Chapter 8 of the Income Tax (Earnings and Pensions) Act 2003 ('the IR35 Rules') and to provide all such information regarding the same as may be reasonably requested by the Purchaser.

- 49.2 The Provider shall indemnify the Purchaser fully against all claims, proceedings, actions, damages, legal costs, expenses and other liabilities arising from the Provider's failure to comply with Clause 49.1.

50. WHISTLEBLOWING

- 50.1 The Provider shall be aware of and adhere to the principles set out in the Purchaser's whistleblowing policy in reporting concerns which arise during the Agreement and shall ensure that its agents and sub-contractors do the same. The Purchaser's whistleblowing policy can be accessed on the Purchaser's website at www.dorsetcouncil.gov.uk

51. MODERN SLAVERY ACT 2015

- 51.1 The Provider warrants and undertakes that in performing its obligations under the terms of this Agreement, it will:

51.1.1 comply with the Modern Slavery Act 2015; and

51.1.2 not engage in any activity, practice or conduct that would constitute an offence under the Modern Slavery Act 2015; and

51.1.3 include in its subcontracting arrangements provisions that are at least as onerous as those set out in this clause 51.1.

- 51.2 The Provider warrants that neither it nor any of its officers, employees, agents or subcontractors has:

51.2.1 committed an offence under the Modern Slavery Act 2015 ('a MSA Offence'); or

51.2.2 been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or

51.2.3 is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA offence or prosecution under the Modern Slavery Act 2015.

52. INDIVIDUAL PLACEMENT AGREEMENTS AND REVIEW

- 52.1 If the Purchaser wishes to purchase Services under the Contract, it shall enter into an IPA with the Provider in the form set out in Schedule 3. The IPA incorporates the terms and conditions of this Framework Agreement and its Schedules and the Framework Agreement incorporates any additional provisions set out in the IPA.

- 52.2 The Provider shall provide no Services to the Purchaser unless an IPA has been signed by the parties.

- 52.3 For each Service User placed, an IPA will be issued by the Purchaser for completion by the Provider. Once complete, the IPA will be signed by both parties. Each IPA

will set out the duration of the IPA.

- 52.4 The IPA will be issued by the date of commencement of the Placement. In the case of emergencies, an IPA will be issued as soon as possible after the date of commencement but within 7 Working Days.
- 52.5 Variations to any IPA made under this Framework Agreement may be made in accordance with Clause 8 of this Framework Agreement.
- 52.6 The IPA will be reviewed as a minimum in accordance with statutory requirements. Wherever possible, education, social care, health and other reviews will take place together. Either Party to the IPA may reasonably request a review meeting and consider what amendments (if any) are required to be made resulting from changes in the needs of a Service User.
- 52.7 Urgent review meetings will normally be convened within 5 Working Days and preferably within 72 hours.
- 52.8 Following the review meeting, any changes discussed regarding the IPA will not be implemented until relevant documentation has been updated by the Contracts Officer. The updated documentation will reflect the change(s) in assessed need and cost implications following from the agreed change(s) in assessed need. It will have been authorised by the Purchaser's Contracts Manager and confirmed in writing.
- 52.9 Changes to Services provided as identified in this Clause will be effective from a date agreed by both parties and invoices should not reflect any change prior to the agreed date. Any invoices received detailing changes to the Services prior to the agreed date will not be processed for payment by the Purchaser.

Absence and Unauthorised Absence from the Premises

- 52.10 Where the Service User becomes absent from the Premises for continuous periods of 21 days due to hospitalisation, or 7 days for other absences, the IPA will be reviewed in good faith and, if appropriate, varied to take regard of the Services required by the Service User and the Contract Price varied according to any differential costs incurred.
- 52.11 During any absence, the Provider may not use the Service User's accommodation for any other purpose.

53. TERMINATION OF INDIVIDUAL PLACEMENT AGREEMENTS

- 53.1 All Placements will be monitored on a monthly basis. The contract review meeting must be attended by the Provider and Purchaser. Any difficulties with the Placement must be shared at these meetings. Every effort must be made by the Provider to stabilise the Placement and both parties will be expected to provide full details of interventions put in place to prevent any breakdown.
- 53.2 Termination of any Placement will not be considered unless a stability meeting with the Council's representatives has taken place. This meeting will actively consider solutions to stabilise the Individual Placement and prevent breakdown.
- 53.3 Where both parties agree that after following the steps in Clauses 53.1 and 53.2 the Placement can no longer meet the needs of the Service User, notice to terminate the

Placement can be provided in writing by either party. The notice period will be 28 calendar days. A final assessment will be produced by the Provider before the Placement ends.

- 53.4 Where the parties are working towards a planned move of the Service User to a new placement, the date of termination of the IPA shall, notwithstanding clause 53.3, be the start date of the new placement and the Purchaser shall notify the Provider of such date as soon as reasonably possible after it is agreed with the replacement provider.
- 53.5 In exceptional circumstances, where there is strong evidence of actual or likely significant harm to the Service User or another Service User to whom the Services are being provided, there may be a need to terminate the IPA in a lesser period by mutual agreement. This must be agreed at an urgent review meeting and both parties must work together to secure a safe transition to a new placement.
- 53.6 Where the Service User is required by a court to live elsewhere, the IPA will terminate on 7 days' written notice.
- 53.7 Where a Service User has died, the IPA will terminate 7 days following the date of death. During this time, the Purchaser and the Provider will work together to make appropriate arrangements, and responses to any coroner inquest (if relevant), funeral arrangements and transfer of personal belongings.
- 53.8 In all circumstances where a Placement is to be terminated, the parties will work together to safeguard the interests of the Service User until such time as alternative arrangements can be made. Any variation to the Services provided and change in the Contract Price necessary to maintain the Placement will be agreed at the review meeting in accordance with Clause 8.
- 53.9 The serving of notice for termination of the Call-Off Contract will entitle the Purchaser to terminate any IPA that it has entered into by giving written notice to expire on the date set out in the notice.
- 53.10 The Purchaser may terminate an IPA in accordance with Clause 30 of this Contract.
- 53.11 Either party may terminate the IPA with immediate effect if the Service User is 16 years of age and lawfully discharges themselves from care. At all times both parties will comply with the requirements of the Children (Leaving Care) Act 2000.
- 53.12 In all circumstances, payment for Services under an IPA will cease from the expiry of the notice period for the IPA.

Framework Agreement relating to the Provision of Children’s Residential Care
DC-CS/2022-XX ****
(Lot 1 – Planned and Same Day Children’s Homes Residential Care
Lot 2 – Therapeutic Residential Care)

IN WITNESS WHEREOF this Framework Agreement has been executed as a Deed by the following Parties

EXECUTED as a DEED by affixing the
COMMON SEAL of
DORSET COUNCIL
in the presence of

.....
Authorised Signatory

.....
Dated

EXECUTED as a DEED by
XXXXXXXXXX
acting by a Director in the presence of

.....
Director

.....
Signature of independent witness

.....
Name (in BLOCK CAPITALS)

.....
Address

.....

SCHEDULE 1 SERVICE SPECIFICATION

[to be inserted following award]

SCHEDULE 2 PRICING SCHEDULE

[to be inserted following award]

SCHEDULE 3 INDIVIDUAL PLACEMENT AGREEMENT

[to be inserted following award]