

TORBAY COUNCIL

Framework Agreement between

The Authority

Torbay Council of Town Hall, Torquay, Devon, TQ1 3DR

and

The Provider

[Insert name, registered office address and, where applicable, the company number of the Provider]

Date

[Insert the date when signed by both parties]

Agreement Commencement Date

[Insert the date on which the Agreement shall commence]

Summary of Services

[Insert a summary of the Services to be supplied by the Provider]

This Agreement is made on the date set out above subject to the terms set out in the schedules listed below (**Schedules**). The Authority and the Provider undertake to comply with the provisions of the Schedules in the performance of this Agreement.

The Provider shall supply to the Authority, and the Authority shall receive and pay for, the Services on the terms of this Framework Agreement and any subsequent Call-Off Contract.

The Definitions in **Schedule 4** apply to the use of all capitalised terms in this Agreement.

Schedule 1	Key Provisions
Schedule 2	General Provisions
Schedule 3	Award Procedures
Schedule 4	Definitions and Interpretations
Schedule 5	Services and Lots
Schedule 6	Specification
Schedule 9	Provider's Tender Response
Schedule 8	Pricing Schedule
Schedule 9	Exit Management Schedule
Schedule 10	Exit Plan
Schedule 11	Framework Agreement Variation Procedure
Error! Reference source not found.	Evidence of Insurance
Schedule 13	Not Used
Schedule 14	Call Off Terms and Conditions

Executed as a deed by affixing the common seal of [**Insert full name of the Authority**] in the presence of:

.....

[Name]

[Position]

[COMMON SEAL]

Signed by the Authorised Representative of THE SUPPLIER

Name:		Signature	
Position:			

Background

The Authority published a contract notice with contract reference **[insert the contract notice reference that will be found on the Authority's contract notice for this Framework Agreement]** on **[insert date that the contract notice was published]** in the Official Journal of the European Union seeking expressions of interest from potential providers for **[insert a brief description of the Services to be provided by the Provider]**.

The Authority has, through a competitive process, selected the Provider to provide these services and the Provider is willing and able to provide the services in accordance with the terms and conditions of this Framework Agreement and any subsequent Call-Off Contract.

Documents that form part of this Agreement are

- (i) the completed tender documents including the Specification, Provider Tender Response Payment Schedule, and any other supporting documentation; and
- (ii) the Front Sheet and its associated Schedules.

Standard Key Provisions

1 Application of the Key Provisions

- 1.1 The standard Key Provisions at clauses 1 to 6 of these Key Provisions shall apply to this Contract.
- 1.2 The optional Key Provisions at clauses 7 and 8 of these Key Provisions shall apply to this Contract if they are set out in the section below. The tick boxes are purely for administrative purposes and have no bearing on the terms of this Contract
- 1.3 Extra Key Provisions shall only apply to this Contract where such provisions are set out at the end of this Schedule 1.

2 Term

- 2.1 This Framework Agreement shall take effect on the Commencement Date and shall continue for the Term unless terminated early or extended as appropriate in accordance with the terms conditions or clauses of this Agreement.
- 2.2 The Initial Term shall be the period commencing on the Commencement Date and ending **[insert proposed end date of the Agreement]** unless terminated in advance of this date.

3 Authorised Representatives

- 3.1 At the Commencement Date:
 - (a) the Authority Authorised Representative is:
[insert name and role of the Authority's Authorised Representative]
 - (b) the Provider Authorised Representative is:
[insert name and role of the Provider's Authorised Representative].

4 Names and addresses for notices

- 4.1 Notices served under this Contract are to be delivered to:
 - (a) for the Authority:
[complete name and/or role (this is normally going to be the Authorised Representative identified at 3 above) and postal address that they shall be contacted at – please note the address may be different to the registered office address of the Authority above]
[insert e-mail address of the person identified above]
 - (b) for the Provider:
[complete name and/or role (this is normally going to be the Authorised Representative identified at 3 above and postal address that they shall be

contacted at – please note the address may be different to the registered office address of the Provider above].

[insert e-mail address of the person identified above]

5 Order of precedence

- 5.1 Should there be a conflict between any other parts of this Agreement the order of priority for construction purposes shall be:
- (a) the provisions of the Front Sheet of this Framework Agreement;
 - (b) Schedule 1: Key Provisions;
 - (c) Schedule 6: Specification;
 - (d) Schedule 8: Pricing Schedule;
 - (e) Schedule 3: Award Procedures
 - (f) Schedule 14: Call-Off Terms;
 - (g) Schedule 7: Provider's Tender Response Document;
 - (h) Schedule 4: Definitions and Interpretations; and
 - (i) the order in which all subsequent schedules, if any, appear.

6 Scope of Framework Agreement

- 6.1 This Agreement governs the relationship between the Authority and the Provider in respect of the provision of the Services by the Provider to the Authority.
- 6.2 The Authority appoints the Provider as a Framework Provider of the Services and the Provider shall be eligible to receive Orders for such Services from the Authority during the Term.
- 6.3 The Authority may, at its absolute discretion and from time to time, order Services from the Provider in accordance with the ordering procedure set out in Schedule 3 during the Term. The Parties acknowledge and agree that the Authority has the right to order Services pursuant to this Framework Agreement provided that they comply at all times with the Regulations and the ordering procedure in Schedule 3. If there is a conflict between Schedule 3 and the Regulations, the Regulations shall take precedence.
- 6.4 If and to the extent that any Services under this Framework Agreement are required the Authority shall:
- (a) enter into a contract with the Provider for these Services materially in accordance with the terms of the Contract; and
 - (b) comply with the ordering procedure in Schedule 3..
- 6.5 The Provider acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Authority for the Services and that the Authority is at all times entitled to enter into other contracts and arrangements with other suppliers for the provision of any or all services which are the same as or similar to the Services.
- 6.6 The Authority shall not in any circumstances be liable to the Provider or any Other Contracting Body for payment or otherwise in respect of any Services provided by the Provider to any Other Contracting Body.

Optional Key Provisions

<input checked="" type="checkbox"/>	7	Extending the Initial Term
	7.1	The Authority may extend this Agreement beyond the Initial Term by a further period or periods of up to two years (Extension Period), awarded in increments of up to two years. If the Authority wishes to extend this Agreement, it shall give the Provider at least three months' written notice of such intention before the expiry of the Initial Term or Extension Period.
	7.2	If the Authority or any individual member of the Authority gives such notice then the Term shall be extended by the period set out in the notice.

	7.3	If the Authority does not wish to extend this Agreement beyond the Initial Term this Agreement shall expire on the expiry of the Initial Term and clause 9 of the Key Provisions shall apply.
<input checked="" type="checkbox"/>	8	<p>Insurance^[FT1]</p> <p>8.1 In the event that this clause applies, the following shall amend the wording of clause 6 of the General Terms:</p> <ul style="list-style-type: none"> (a) public liability insurance with a limit of indemnity of not less than £10,000,000 in relation to any one claim or series of claims; (b) employer's liability insurance with a limit of indemnity of not less than £10,000,000 in relation to any one claim or series of claims; (c) professional indemnity insurance with a limit of indemnity of not less than £2,000,000 in relation to any one claim or series of claims and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover; (d) malpractice insurance with a limit of indemnity of not less than £1,000,000 in relation to any one claim or series of claims and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover; (e) Residents Effects Cover – a minimum of £1,500 in respect of any one claim for each Young Person; (f) Appropriate Buildings and Contents Cover – a minimum sum insured to relate directly to the value of property real or personal, where a Young Person is resident so as to allow in respect of any one claim for each Young Person adequate indemnity and the avoidance of loss and to allow for the reinstatement of an establishment belonging to the Provider in the avoidance of loss of provision to the Authority; (g) Appropriate Vehicle Insurance Cover (where applicable to the relevant service) – the Provider and its staff 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 Young People and their visitors; (h) Sub-Contractors Liability (where applicable to the relevant service) – the Provider shall ensure that the same levels of insurance are maintained for any sub contracted Services. <p>(the Required Insurances). The cover shall be in respect of all risks which may be incurred by the Provider, arising out of the Provider's performance of the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Provider.</p>

	8.2	The Provider shall on request provide to the Authority documentary evidence that the insurances required by this clause have been effected and are being maintained. Where the Authority is of the opinion that this is not the case, or where evidence of consistent and ongoing cover cannot be demonstrated, the Authority shall be entitled to terminate this contract and/or any relevant IPA and may, where the Authority feels appropriate, give a reasonable period of no more than 28 days to the Provider to undertake and effect such insurances as to meet the terms and conditions of this Contract and in adherence to clause 11 of the General Terms.
<input checked="" type="checkbox"/>	9	Exit Management and Consequences of Termination The parties shall comply with the provisions of Schedule 9 in relation to orderly transition of the Services to the Authority or a Replacement Provider.

Additional Key Provisions – Not Used

Provider's General Framework Obligations

1. Warranties and Representations

- 1.1 The Provider warrants and represents to the Authority and to each of the Other Contracting Bodies that:
- (a) it has full capacity and authority and all necessary consents (including, where its procedures so require, the consent of its Parent Company) to enter into and to perform its obligations under this Framework Agreement;
 - (b) this Framework Agreement is executed by a duly authorised representative of the Provider;
 - (c) in entering into this Framework Agreement or any Contract it has not committed any Prohibited Act;
 - (d) as at the Commencement Date, all information, statements and representations contained in the Tender and the SQ Response are true, accurate and not misleading save as may have been specifically disclosed in writing to the Authority before the execution of this Framework Agreement and it will promptly advise the Authority of any fact, matter or circumstance of which it may become aware during the Term that would render any such information, statement or representation to be false or misleading;
 - (e) no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets that will or might affect its ability to perform its obligations under this Framework Agreement and any Contract which may be entered into with the Authority or Other Contracting Bodies;
 - (f) it is not subject to any contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under this Framework Agreement and any Contract; and
 - (g) no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue.
 - (h) In performing its obligations under the agreement, the Provider shall [and shall ensure that each of its subcontractors shall] comply with:
 - (i) all applicable laws, statutes, regulations and codes from time to time in force including, but not limited to, the Modern Slavery Act 2015; and
 - (ii) in accordance with Customer's the Anti-slavery Policy.(if any)

2. Service Pre-Requisites

The Provider shall be responsible for obtaining all licences, authorisations, consents or permits required in relation to the performance of this Framework Agreement and any Contract.

Provider's Information Obligations

3. Reporting and Meetings

- 3.1 The Provider shall submit Management Information to the Authority in the form set out in Schedule 13 throughout the Term on the last day of every third Month and thereafter in respect of any Contract entered into with the Authority.
- 3.2 The Authorised Representatives shall meet in accordance with the details set out in Schedule 13 and the Provider shall, at each meeting, present its previously circulated Management Information in the format set out in that Schedule.
- 3.3 The Authority may share the Management Information supplied by the Provider with any Other Contracting Body.
- 3.4 The Authority may make changes to the nature of the Management Information that the Provider is required to supply and shall give the Provider at least one month's written notice of any changes.

4. Records and Audit Access

- 4.1 The Provider shall keep and maintain until six years after the date of termination or expiry (whichever is the earlier) of this Framework Agreement (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of this Framework Agreement including the Services provided under it, the Contracts entered into with Customers and the amounts paid by the Authority.
- 4.2 The Provider shall keep the records and accounts referred to in clause 4.1 above in accordance with good accountancy practice.
- 4.3 The Provider shall afford the Authority or the Auditor (or both) such access to such records and accounts as may be required from time to time.
- 4.4 The Provider shall provide such records and accounts (together with copies of the Provider's published accounts) during the Term and for a period of 12 years after expiry of the Term to the Authority and the Auditor.
- 4.5 The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Provider or delay the provision of the Services pursuant to the Contracts, save insofar as the Provider accepts and acknowledges that control over the conduct of Audits carried out by the Auditor is outside of the control of the Authority.
- 4.6 Subject to the Authority's rights of confidentiality, the Provider shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:
 - (a) all information requested by the Auditor within the scope of the Audit;
 - (b) reasonable access to sites controlled by the Provider and to equipment used in the provision of the Services; and
 - (c) access to the Staff.
- 4.7 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 11, unless the Audit reveals a Material Default by the Provider in which case the Provider shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the Audit.

5. Confidentiality

- 5.1 Subject to clause 5.2, the Parties shall keep confidential all matters relating to this Framework Agreement and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.
- 5.2 Clause 5.1 shall not apply to any disclosure of information:
 - (a) required by any applicable law;
 - (b) that is reasonably required by persons engaged by a Party in the performance of that Party's obligations under this Framework Agreement;
 - (c) that is reasonably required by Other Contracting Bodies;
 - (d) where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 5.1;
 - (e) by the Authority of any document to which it is a party and which the Parties to this Framework Agreement have agreed contains no Confidential Information;
 - (f) to enable a determination to be made under clause 15;
 - (g) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information;
 - (h) by the Authority to any other department, office or agency of the government, provided that the Authority informs the recipient of any duty of confidence owed in respect of the information; and
 - (i) by the Authority relating to this Framework Agreement and in respect of which the Provider has given its prior written consent to disclosure.

6. Insurance

The Provider shall set comply with the insurance requirements set out in the tender documents.

7. Data Protection

- 7.1 The Provider shall (and shall procure that any of its Provider's Personnel involved in the provision of the Services called off under this Agreement shall) comply with any notification requirements under Data Protection Legislation and both Parties shall duly observe all their obligations under Data Protection Legislation, which arise in connection with the Contract.
- 7.2 Notwithstanding the general obligation in clause 7.1, where the Provider is processing Personal Data as a Data Processor for the Authority, the Provider shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under Data Protection Legislation; and
- (a) provide the Authority with such information as the Authority may reasonably require to satisfy itself that the Provider is complying with its obligations under Data Protection Legislation;
 - (b) within 24 hours of the Provider becoming aware of the breach occurring, notify the Authority of any breach and of the security measures required to be put in place pursuant to this clause 7.2;
 - (c) co-operating with the Authority and/or any relevant regulatory body in carrying out any investigation by providing information requested by the Authority and/or relevant regulatory body within the timescales required;
 - (d) allow the Authority's and/or the regulatory body's representatives access to Provider premises, systems and data for the purposes of any investigation, inspection or audit; and
 - (e) ensure it does not knowingly or negligently do or omit to do anything which places the Authority in breach of the Authority's obligations under Data Protection Legislation.
- 7.3 The Provider shall not engage another processor without prior written authorisation from the Authority. The Provider shall inform the Authority of any intended changes concerning the addition or replacement of other processors giving the Authority the opportunity to object. All additional or replacement processors are required to sign the Authority's Data Processing Agreement.
- 7.4 The Provider shall indemnify the Authority against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profits, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by, or awarded against the Authority arising from any breach of the Provider's obligations in this clause 14 except and to the extent that such liabilities have resulted directly from the Authority's instructions.

8. Freedom of Information

- 8.1 The Provider acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs and transparency obligations under the Public Contracts Regulations 2015, and shall assist and co-operate with the Authority (at the Provider's expense) to enable the Authority to comply with its obligations under the FOIA and the EIRs and its transparency obligations under the Public Contracts Regulations 2015.
- 8.2 The Provider shall and shall procure that its Sub-Contractors shall:
- (a) transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within 5 Working Days of receiving a Request for Information;
 - (b) provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and
 - (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIRs.
- 8.3 The Authority shall be responsible for determining at its absolute discretion whether the Confidential Information and/or any other Information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs; and/or
 - (b) is to be disclosed in response to a Request for Information.
- 8.4 In no event shall the Provider respond directly to a Request for Information unless expressly authorised to do so by the Authority.

- 8.5 The Provider acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Provider. The Authority shall take reasonable steps to notify the Provider of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) the Authority shall be responsible for determining in its absolute discretion whether any Confidential Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs. The Provider shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.
- 8.6 The Provider acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with clause 8.5.
- 8.7 The Provider acknowledges that the United Kingdom Government's transparency agenda, including the transparency obligations under the Public Contracts Regulations 2015, requires that contracts, such as the Contract, and any tender document, such as the invitation to tender and certain other information, are published on a designated, publicly searchable website and the Provider consents to such publication.
- 8.8 The Provider acknowledges that, except for any information which is exempt from disclosure in accordance with the provisions of FOIA, the content of the Contract is not Confidential Information. The Authority shall be responsible for determining in their absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of FOIA.
- 8.9 Notwithstanding any other term of the Contract, the Provider hereby consents to the Authority publishing the Contract in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of FOIA redacted) including from time to time agreed changes to the Contract, to the general public.
- 8.10 The Provider shall assist and co-operate with the Authority to enable the Authority to publish this Contract.

9. Publicity

- 9.1 Unless otherwise directed by the Authority, the Provider shall not make any press announcements or publicise this Framework Agreement in any way without the User Authority's prior written consent.
- 9.2 The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation on the Authority, including any examination of this Framework Agreement by the Auditor or otherwise.
- 9.3 The Provider shall not do anything that may damage the reputation of the Authority or bring the Authority into disrepute.

10. Guarantee

Before the Commencement Date and at the request of each Other Contracting Body, the Provider shall procure that the Guarantor shall:

- (a) execute and deliver to the Authority or the relevant Other Contracting Body the Guarantee;
- (b) deliver to the Authority or Other Contracting Body a certified copy extract of the board minutes of the Guarantor approving the execution of the Guarantee.

Framework Agreement Termination and Suspension

11. Termination

Termination on Default

- 11.1 The Authority may terminate the Framework Agreement by serving written notice on the Provider with effect from the date specified in such notice:
- (a) where the Provider commits a material breach and:
 - (i) the Provider has not remedied the material breach to the satisfaction of the Authority within 20 Working Days, or such other period as may be specified by the Authority, after

- issue of a written notice specifying the material breach and requesting it to be remedied;
or
 - (ii) the material breach is not, in the reasonable opinion of the Authority, capable of remedy;
or
 - (b) where the Authority terminates a Contract awarded to the Provider under this Framework Agreement as a consequence of a material breach by the Provider;
 - (c) any warranty given by the other party in clause 1 of this agreement is found to be untrue or misleading;
 - (d) if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply.
- 11.2 For the purposes of clause 11.1(a), **material breach** means a breach (including an anticipatory breach) that is serious in the widest sense of having a serious effect on the benefit which the Authority would otherwise derive from:
- (a) a substantial portion of this agreement; or
 - (b) any of the obligations under this agreement.

over 14 working days. In deciding whether any breach is material no regard shall be had to whether it occurs by some accident, mishap, mistake or misunderstanding.

Termination on Insolvency and Change of Control

- 11.3 Without affecting any other right or remedy available to it, the Authority may terminate this agreement with immediate effect by giving written notice to the Provider if:
- (a) the Provider suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 **OR** (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 **OR** (being a partnership) has any partner to whom any of the foregoing apply;
 - (b) the Provider commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (being a company) for the sole purpose of a scheme for a solvent amalgamation of Provider with one or more other companies or the solvent reconstruction of the Provider;
 - (c) a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Provider (being a company);
 - (d) an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Provider (being a company);
 - (e) the holder of a qualifying floating charge over the assets of the Provider (being a company) has become entitled to appoint or has appointed an administrative receiver;
 - (f) a person becomes entitled to appoint a receiver over the assets of the Provider or a receiver is appointed over the assets of the Provider;
 - (g) [the Provider (being an individual) is the subject of a bankruptcy petition or order;]
 - (h) a creditor or encumbrancer of the Provider attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Provider's assets and such attachment or process is not discharged within 14 days;
 - (i) any event occurs, or proceeding is taken, with respect to the Provider in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 11.3(a) to clause 11.3(h) (inclusive); or
 - (j) the Provider suspends or ceases, or threatens to suspend or cease, carrying on all or a substantial part of its business.

- 11.4 The Provider shall notify the Authority immediately if the Provider undergoes a Change of Control. The Authority may terminate the Framework Agreement by giving notice in writing to the Provider with immediate effect within six Months of:
- (a) being notified that a Change of Control has occurred; or
 - (b) where no notification has been made, the date that the Authority becomes aware of the Change of Control;
 - (c) but shall not be permitted to terminate where an Approval was granted before the Change of Control.

Termination by Authority for Convenience

- 11.5 The Authority shall have the right to terminate this Framework Agreement, or to terminate the provision of any part of the Framework Agreement at any time by giving a minimum of three months' written notice to the Provider and all other Framework Providers. The Parties acknowledge that if the Authority exercises its rights under this clause 11.5 it shall exercise its equivalent rights under all agreements with the Framework Providers.

12. Suspension of Provider's Appointment

- 12.1 The Authority may suspend the Provider's right to receive Orders against any or all of the Lots awarded to them where:
- (a) Unsatisfactory performance on any Call-Off Contract has resulted in:
 - (i) the early termination of the Call-Off Contract;
 - (ii) the need to put a service improvement plan in place; or
 - (b) Safeguarding risks or concerns in respect of the Provider had been identified; or
 - (c) the Supplier fails to respond to any Further Competition Call-Offs in any six month rolling period; or
 - (d) Complaints are not acknowledged and/or addressed in a timely and satisfactory manner.
- 12.2 The Supplier shall be given the opportunity to provide an explanation before a decision to suspend is made.
- 12.3 Without prejudice to the Authority's rights to terminate the Framework Agreement in clause 11 above, if a right to terminate this Framework Agreement arises in accordance with clause 11, the Authority may suspend the Provider's right to receive Orders from Customers in any or all Provider's Lots by giving notice in writing to the Provider. If the Authority provides notice to the Provider in accordance with this clause 12, the Provider's appointment shall be suspended for the period set out in the notice or such other period notified to the Provider by the Authority in writing from time to time.
- #### **13. Consequences of Termination And Expiry**
- 13.1 Notwithstanding the service of a notice to terminate the Framework Agreement, the Provider shall continue to fulfill its obligations under the Framework Agreement until the date of expiry or termination of the Framework Agreement or such other date as required under this clause 13.
- 13.2 Unless expressly stated to the contrary, the service of a notice to terminate the Framework Agreement shall not operate as a notice to terminate any Contract made under the Framework Agreement. Termination or expiry of the Framework Agreement shall not cause any Contracts to terminate automatically. For the avoidance of doubt, all Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.
- 13.3 On termination or expiry of this Agreement for any reason, the Provider shall comply with the requirements set out in clause 9 of the Key Provisions.
- 13.4 Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement before termination or expiry.
- 13.5 The provisions of clauses 1, 4, 5, 6, 7, 8, 9, 13, 16 and 25 shall survive the termination or expiry of the Framework Agreement, together with any other provision which is either expressed to or by implication is intended to survive termination.

14. Complaints Handling and Resolution

- 14.1 The Provider shall notify the Authority of any Complaint made by Other Contracting Bodies within five Working Days of becoming aware of that Complaint and such notice shall contain full details of the Provider's plans to resolve such Complaint.
- 14.2 Without prejudice to any rights and remedies that a complainant may have at Law, including under the Framework Agreement or a Contract, and without prejudice to any obligation of the Provider to take remedial action under the provisions of the Framework Agreement or a Contract, the Provider shall use its best endeavours to resolve the Complaint within ten Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

15. Dispute Resolution

- 15.1 If a dispute arises out of or in connection with this agreement or the performance, validity or enforceability of it (Dispute) then except as expressly provided in this agreement, the parties shall follow the procedure set out in this clause:
- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Framework Manager of the Authority and Framework Manager of the Provider shall attempt in good faith to resolve the Dispute;
 - (b) if the Framework Manager of the Authority and Framework Manager of the Provider are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to the Director Children's Services of the Authority and **[SENIOR OFFICER TITLE]** of the Provider who shall attempt in good faith to resolve it; and
 - (c) if the Director Children's Services of the Authority and **[SENIOR OFFICER TITLE]** of the Provider are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 90 days after the date of the ADR notice.
- 15.2 The commencement of mediation shall not prevent the parties commencing or continuing court or arbitration proceedings in relation to the Dispute under clause 25 which clause shall apply at all times.

General Provisions

16. Prevention of Bribery

- 16.1 The Provider:
- (a) shall not, and shall procure that the Staff and all Sub-contractor personnel shall not, in connection with this Framework Agreement and any Contract made under it commit a Prohibited Act; and
 - (b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Framework Agreement, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Framework Agreement.
- 16.2 The Provider shall:
- (a) if requested, provide the Authority with any reasonable assistance, at the Customer's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act 2010; and
 - (b) within 20 Working Days of the Commencement Date, and annually thereafter, certify to the Authority in writing (such certification to be signed by an officer of the Provider) compliance with this clause 16 by the Provider and all persons associated with it or other persons who are supplying goods or services in connection with this Framework Agreement. The Provider shall provide such supporting evidence of compliance as the Authority may reasonably request.

- 16.3 The Provider shall have an anti-bribery policy (which shall be disclosed to the Authority) to prevent any Staff or Sub-contractors from committing a Prohibited Act and shall enforce it where appropriate.
- 16.4 If any breach of clause 16.1 is suspected or known, the Provider must notify the Authority immediately.
- 16.5 If the Provider notifies the Authority that it suspects or knows that there may be a breach of clause 16, the Provider must respond promptly to the Customer's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documents. This obligation shall continue for six years following the expiry or termination of this Framework Agreement.
- 16.6 The Authority may terminate this Framework Agreement by written notice with immediate effect if the Provider, its Staff or Sub-contractors (in all cases whether or not acting with the Provider's knowledge) breaches clause 16.1(a) with the authority or with the actual knowledge of any one or more of the directors of the Provider or the Sub-contractor (as the case may be)
- 16.7 Any notice of termination under clause 16.6 must specify:
- (a) the nature of the Prohibited Act;
 - (b) the identity of the party whom the Authority believes has committed the Prohibited Act; and
 - (c) the date on which this Framework Agreement will terminate.
- 16.8 Despite clause 15, any dispute relating to:
- (a) the interpretation of this clause 16; or
 - (b) the amount or value of any gift, consideration or commission,
- shall be determined by the Authority and its decision shall be final and conclusive.
- 16.9 Any termination under this clause 16 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

17. Subcontracting and Assignment

- 17.1 Subject to clauses 17.2 and 17.3, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Framework Agreement without the prior written consent of the other party, neither may the Provider subcontract the whole or any part of its obligations under this Framework Agreement except with the express prior written consent of the Authority.
- 17.2 The Authority shall be entitled to novate the Framework Agreement to any other body which substantially performs any of the functions that previously had been performed by the Authority.
- 17.3 Provided that the Authority has given prior written consent, the Provider shall be entitled to novate the agreement where:
- (a) the specific change in contractor was provided for in the procurement process for the award of this agreement;
 - (b) there has been a universal or partial succession into the position of the Provider, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this agreement.
- 17.4 The Provider shall be entitled to novate the agreement where:
- (a) the specific change in contractor was provided for in the procurement process for the award of this agreement;
 - (b) there has been a universal or partial succession into the position of the Provider, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this agreement;
 - (c) (a) and (b) above are subject to the this condition (c) as follows:
 - (i) The Provider acknowledges by executing this agreement that in any of the circumstances set out in (a) and (b) that any organisation or contractor to whom this Agreement is novated or becomes a successor under the circumstances set out in (b) above will enter into a warranty with the Provider as a part of the Novation or arrangements set out in (b) above [and/or an agreement with the Authority (at the Authority's option)] in accordance with the terms set out in clause c (ii) below.

- (ii) Any organisation to whom this agreement is novated or is a successor within the meaning of (b) above will take any such novation or succession subject to a condition that it will enter competitions on the costs and terms contained in this agreement and the tender submitted by the Provider. It will agree not to seek to vary or alter the terms or pricing accepted by the Authority. Any approach to alter the terms and pricing by a novated organisation or successor will entitle the Authority to terminate forthwith.

17.5 Payment to sub-contractors under the Public Contracts Regulations 2015;

The Provider shall include in every Sub-contract;

- (a) a right for the Provider to terminate that Sub-contract if the relevant Sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or labour law; and
- (b) a requirement that the Sub-contractor includes a provision having the same effect as (a) above in any Sub-contract which it awards.

In this clause, 'Sub-contract' means a contract between two or more contractors, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.

18. Variations to Framework Agreement

Any variations to the Framework Agreement must be made only in accordance with the Framework Agreement Variation Procedure set out in Schedule 11.

19. Third Party Rights

- 19.1 Except as provided in clause 6 of the Key Provisions, Schedule 3 and clause 1 of these General Provisions, a person who is not a party to this agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this agreement.
- 19.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

20. Severance

- 20.1 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- 20.2 If one party gives notice to the other of the possibility that any provision or part-provision of this agreement is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

21. Rights and Remedies

The rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by law.

22. Waiver

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

23. Entire Agreement

- 23.1 This Framework Agreement, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the parties relating to that subject matter, provided that nothing in this clause 23 shall operate to exclude any liability for fraud.
- 23.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Framework Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Framework Agreement.

24. Notices

- 24.1 Except as otherwise expressly provided within this Framework Agreement, no notice or other communication from one Party to the other shall have any validity under the Framework Agreement unless made in writing by or on behalf of the Party sending the communication.
- 24.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), (confirmed by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 4 of the Key Provisions. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two Working Days after the day on which the letter was posted, or four hours, in the case of e-mail or fax or sooner where the other Party acknowledges receipt of such letters, or fax or e-mail.
- 24.3 For the purposes of clause 24.2, the address of each Party shall be as stated in clause 4 of the Key Provisions.
- 24.4 Either Party may change its address for service by serving a notice in accordance with this clause.

25. Governing Law and Jurisdiction

- 25.1 This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.
- 25.2 Each party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Framework Agreement or its subject matter or formation (including non-contractual disputes or claims).

Schedule 3 Award Procedures

1. If the Authority decides to source Services through the Framework Agreement then it may only do so in accordance with the terms for award set out in this Schedule 3.

2. Spot Purchase Awards under the Framework Agreement

- 2.1 The Authority will contact all Framework Providers under the relevant sub-lot and will award the Call-off Contract to the Framework Provider who, in the opinion of the Authority, through its matching process offers the most appropriate match for the Young Person being placed.
- 2.2 The Authority will notify Framework Providers at the time of the Call-off of the specific requirements of the placement and the timescales for submission of responses by Framework Providers.
- 2.3 Where a Framework Provider has not responded within the timescale it will be assumed they do not wish to participate in the process.
- 2.4 The Authority's decision on award of any Call-off Contract will be final.

3. Block Contract Awards Under the Framework Agreement

- 3.1 The Authority may, from time to time, require additional block contract arrangements to meet specific short or longer term needs. The reserves the right to undertake further competitions with Framework Providers to put additional block contract arrangements in place.
- 3.2 Any further competition will be run using the Authority's e-tendering portal all Framework Providers on the relevant sub-lot will be invited to submit bids.
- 3.3 Details of the scope and duration of any new block arrangements required, together with the full evaluation criteria and timescales for submission, will be provided within the tender documentation for each individual further competition.
- 3.4 Submissions will be assessed using the following Quality / Price split:
 - 3.4.1 Quality = 60%
 - 3.4.2 Price = 40%

4. Form of Order

- 4.1 Subject to clause 2 above, the Authority may place an Order with the Provider by serving an order in writing in substantially the form set out in **Error! Reference source not found.** or such similar or analogous form agreed with the Provider including systems of ordering involving fax, e-mail or other online solutions.

5. Accepting and declining Orders

- 5.1 Following receipt of an Order, the Provider shall promptly and in any event within a reasonable period determined by the Authority and notified to the Provider in writing at the same time as the submission of the Order (which in any event shall not exceed three Working Days) acknowledge receipt of the Order and either:
 - (a) notify the Authority in writing and with detailed reasons that it is unable to fulfil the Order; or
 - (b) notify the Authority that it is able to fulfil the Order by signing and returning the Order Form.
- 5.2 If the Provider:
 - (a) notifies the Authority that it is unable to fulfil an Order; or
 - (b) the time limit referred to in clause 2.1 has expired;

then the Order shall lapse and the Authority may then send that Order to the Framework Provider offer the next most appropriate match or will run a further Call-Off process accordance with the procedure set out in clause 2.

- 5.3 If the Provider modifies or imposes conditions on the fulfillment of an Order, then the Authority may either:
 - (a) reissue the Order incorporating the modifications or conditions; or
 - (b) treat the Provider's response as notification of its inability to fulfil the Order and the provisions of clause 5.2 shall apply.

- 5.4 The Parties acknowledge and agree that the placement of an Order is an "invitation to treat" by the Authority. Accordingly, the Provider shall sign and return the Order Form which shall constitute its offer to the Authority. The Authority shall signal its acceptance of the Provider's offer and the formation of a Contract by counter-signing the Order Form.

6. Contract Performance and Precedence of Documents

- 6.1 The Provider shall perform all Contracts entered into with the Authority in accordance with:

- (a) the requirements of this Framework Agreement; and
- (b) the terms and conditions of the respective Call-off Contract.

- 6.2 In the event of, and only to the extent of, any conflict or inconsistency between the terms and conditions of this Framework Agreement and the terms and conditions of a Call-Off Contract, such conflict or inconsistency shall be resolved according to the order of priority set in out in clause 5 of the Key Provisions.

6.3 Prices for Services

- 6.4 The prices offered by the Provider for Contracts to Customers for Standard Services shall be the prices listed in the Pricing Matrix for the relevant Lot and such prices shall be adjusted in accordance with the provisions of Schedule 8.
- 6.5 The prices offered by the Provider for Contracts to Customers for Competed Services shall be based on the prices set out in the Pricing Matrices and tendered in accordance with the requirements of the further competition held pursuant to Schedule 3.

Schedule 4 Definitions and Interpretation

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

Approval: means the prior written approval of the Authority.

Audit: means an audit carried out pursuant to clause 4 of the General Provisions.

Auditor: means the National Audit Office or an auditor appointed by the Authority as the context requires.

Authority means Torbay Council

Authorised Representative: means the persons respectively designated as such by the Authority and the Provider.

Award Criteria: means the Standard Services Award Criteria and/or the Competed Services Award Criteria as the context requires.

Call-off Terms and Conditions: means the terms and conditions in Schedule 14.

Change of Control: means a change of control within the meaning of section 1124 of the Corporation Tax Act 2010.

Commencement Date: means the date on the front sheet.

Competed Services: means the competed services set out in Schedule 5.

Competed Services Award Criteria: means the award criteria to be applied to Supplemental Tenders received through mini-competitions held for the award of Contracts for Competed Services as set out in Schedule 3 and the Order Form.

Complaint: means any formal complaint raised by the Authority in relation to the performance under the Framework Agreement or any Contract in accordance with clause 14 of the General Provisions.

Confidential Information: means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Provider, including intellectual property rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.

Contract: means a legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Services made between the Authority and the Provider comprising an Order Form, its appendices, and the Call-off Terms and Conditions (as may be amended pursuant to Schedule 3).

Customer: means the Authority and any other contracting authority (as defined in regulation 2 of the Regulations) described in the OJEU Notice.

Default: means any breach of the obligations of the relevant Party under a Contract (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other.

Data Protection Legislation: means all current UK legislation that relates to Data Protection.

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

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

Framework Agreement: means this agreement and all Schedules to this agreement.

Framework Agreement Variation Procedure: means the procedure set out in Schedule 11.

Framework Providers: means the Provider and other contractors appointed as framework providers under this Framework Agreement.

Framework Year: means a period of 12 months, commencing on the Commencement Date.

Guarantee: or **Indemnity** means the deed of guarantee in favour of the Authority or relevant Other Contracting Body entered into by the Guarantor (which is in the form set out in clause 17 of the General Provisions) or any guarantee acceptable to the Authority or the relevant Other Contracting Body that replaces it from time to time.

Guarantor: means the organisation providing the Guarantee or Indemnity.

Guidance: means any guidance issued or updated by the UK government from time to time in relation to the Regulations.

Information: has the meaning given under section 84 of the FOIA.

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

Law: means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.

Lots: means the Services divided into lots as referred to in the OJEU Notice and set out in Schedule 5.

Management Information: means the management information specified in Schedule 13.

Month: means a calendar month.

OJEU Notice: means the contract notice published in the Official Journal of the European Union.

Order: means an order for Services sent by the Authority to the Provider in accordance with the award procedures in Schedule 3.

Order Form: means a document setting out details of an Order in the form set out in Schedule 11 or as otherwise agreed in accordance with Schedule 3.

Other Contracting Bodies: means all Customers except the Authority.

Parent Company: means any company which is the ultimate Holding Company of the Provider and which is either responsible directly or indirectly for the business activities of the Provider or which is engaged in the same or similar business to the Provider.

Holding Company shall have the meaning ascribed by section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto.

Party: means the Authority and/or the Provider.

SQ Response: means the response to the selection questionnaire submitted by the Provider to the Authority in respect of this Agreement.

Pricing Matrices: means the pricing matrices set out in Schedule 8.

Prohibited Act: the following constitute Prohibited Acts:

(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:

(i) induce that person to perform improperly a relevant function or activity; or

(ii) reward that person for improper performance of a relevant function or activity;

(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Framework Agreement;

(c) committing any offence:

(i) under the Bribery Act 2010;

(ii) under legislation creating offences concerning fraudulent acts;

(iii) at common law concerning fraudulent acts relating to this Framework Agreement or any other contract with the Authority; or

(d) defrauding, attempting to defraud or conspiring to defraud the Authority.

Regulations: means the Public Contracts Regulations 2015 (*SI 2015/102*).

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

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

Services: means the services detailed in Schedule 6.

Staff: means all persons employed by the Provider together with the Provider's servants, agents, suppliers and subcontractors used in the performance of its obligations under this Framework Agreement or Contracts.

Standard Services: means the standard services referred to in Schedule 6.

Standard Services Award Criteria: means the award criteria to be applied for the award of Contracts for Standard Services as set out in Schedule 3.

Subcontract: means; any contract between the Provider and a third party pursuant to which the Provider agrees to source the provision of any of the Services from that third party and includes any contract between two or more contractors, at any stage of remoteness from the Authority in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.

Sub-contractor: the contractors or service providers that enter into a Subcontract with the Provider.

Supplemental Tender: means the documents submitted to the Authority in response to the invitation to Framework Providers for formal offers to supply it with Competed Services.

Provider's Lots: means the lots to which the Provider has been appointed under this Framework Agreement as set out in Schedule 5.

Tender: means the tender submitted by the Provider to the Authority in respect of this Agreement.

Term: means the period commencing on the Commencement Date and ending on the date given in clause 2.2 of Schedule 1 (Key Provisions) or on earlier termination of this Framework Agreement.

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

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

Year: means a calendar year.

- 2 The interpretation and construction of this Framework Agreement shall all be subject to the following provisions:
 - 2.1 words importing the singular meaning include where the context so admits the plural meaning and vice versa;
 - 2.2 words importing the masculine include the feminine and the neuter;
 - 2.3 the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
 - 2.4 references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
 - 2.5 references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;

- 2.6 headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement;
- 2.7 (g) the Schedules form part of this Framework Agreement and shall have effect as if set out in full in the body of this Framework Agreement and any reference to this Framework Agreement shall include the Schedules;
- 2.8 references in this Framework Agreement to any clause or sub-clause or Schedule without further designation shall be construed as a reference to the clause or sub-clause or Schedule to this Framework Agreement so numbered;
- 2.9 references in this Framework Agreement to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to this Framework Agreement so numbered; and
- 2.10 reference to a clause is a reference to the whole of that clause unless stated otherwise.

Schedule 5 **Services and Lots**

Insert details of the lot(s) / sub-lots awarded to the Provider

Schedule 6

Specification(s)

Insert the relevant service specification(s) here

Schedule 7 Provider's Tender Response

Insert the suppliers Part 4 Award Questionnaire response here.

1 Price

- 1.1 The charges payable by the Authority to the Provider are set out in the table below:-

Insert the Provider's submitted Part 5 Pricing here

- 1.2 The Provider must ensure that neither it, nor any Provider's Staff make any charges to the Young Person or their families or any other persons relative to the Young Person other than to the Authority in respect of this Contract unless it has been agreed in advance, in writing by the Authority.

All amounts under this Contract are exclusive of VAT.

2 Price Review

- 2.1 The price offered by the Applicant in the Part 5 Pricing Submission must be firm and fixed for the first year of the Contract. The Contract price will be reviewed annually, taking into account occupancy, voids, spot purchasing and the outcome of the Authority's budget setting process. The maximum uplift that may be applied two percent (2%) per annum and if agreed will be effective from 01 April of the relevant year.

Schedule 9 Exit Management Schedule

1 Introduction

- 1.1 This Schedule describes the duties and responsibilities of the Provider to the Authority or any individual member of the Authority leading up to and covering the expiry or termination (howsoever arising) (including partial termination) of this Agreement or any resultant Call-off Contract and the transfer of service provision to a Replacement Provider.
- 1.2 The objectives of this Schedule 9 are to ensure a smooth transition of the availability of the Services from the Provider to the Authority and/or Replacement Provider at the termination (howsoever arising) (including partial termination) or expiry of this Agreement or any resultant Call-off Contract.

2 Exit and Service Transfer Arrangements

The Provider agrees to indemnify and keep the Authority fully indemnified for itself and on behalf of any replacement Provider in respect of any claims, costs (including reasonable legal costs), demands, and liabilities arising from the provision of incorrect information provided to the Authority by the Provider, to the extent that any such claim, cost, demand or liability directly and unavoidably arises from the use of the incorrect information in a manner that can reasonably be assumed to be proper in bidding for or providing services similar to the Services.

3 Exit Management Plan

- 3.1 Where required by the Authority, no later than three (3) months after the Commencement Date, and thereafter as specified in paragraph 3.4 of this Schedule, the Provider shall prepare an Exit Management Plan for review by the Authority which will set out the Provider's proposed methodology for achieving an orderly transition of the Services from the Provider to the Authority and/or its Replacement Provider on the expiry or termination of this Contract.
- 3.2 The Authority shall review the Exit Management Plan within twenty (20) Working Days of receipt from the Provider and shall notify the Provider of any suggested revisions to the Exit Management Plan. In this respect, the Authority will act neither unreasonably, capriciously nor vexatiously. Such suggested revisions shall be discussed and resolved within ten (10) Working Days of them being communicated to the Provider. Once agreed, the Exit Management Plan shall be inserted into this Contract at Schedule 10. The agreed Exit Management Plan shall be signed as approved by each party. If the parties are unable to agree the contents of the Exit Management Plan within 30 Working Days of its submission, then such Dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 3.3 The Exit Management Plan shall provide comprehensive proposals for the activities and the associated liaison and assistance that will be required for the successful transfer of the Services, including the following details as a minimum:
 - 2.10.1 how the information in paragraph **Error! Reference source not found.** of this Schedule 9 is obtained;
 - 2.10.2 how the Provider will deal with the expiry or termination of this Agreement or any resultant Call-off Contract;
 - 2.10.3 a detailed description of both the transfer and cessation processes, including a timetable;
 - 2.10.4 how the Services will transfer to the Replacement Provider and/or the Authority, including details of the processes, documentation, data transfer, systems migration, security and the segregation of the Authority's technology components from any technology components operated by the Provider or its Sub-Contractors (where applicable);
 - 2.10.5 the scope of any services and activities to be performed by the Provider to assist the Authority and/or the Replacement Provider in the transfer of the Services to the Authority and/or Replacement Provider including a timetable (where applicable);

- 2.10.6 how each of the issues set out in this Schedule 9 will be addressed to facilitate the transition of the Services from the Provider to the Authority and/or the Replacement Provider with the aim of ensuring that there is no disruption to or degradation of the Services;
- 2.10.7 proposals for the identification and transfer of documentation providing details of the Services;
- 2.10.8 proposals for the identification of all leases, maintenance agreements and support agreements utilised by the Provider in connection with the provision of the Services, together with details of the relevant lessors and contractors, the payment terms, expiry dates and any relevant novation and/or early termination provisions;
- 2.10.9 proposals to enable the Authority or the Replacement Provider to recruit suitably skilled personnel;
- 2.10.10 proposals for the training of key members of the Authority's and/or the Replacement Provider's personnel in connection with the continuation of the provision of the Services following the expiry or termination (howsoever arising) of this Contract charged at rates agreed between the parties at that time;
- 2.10.11 proposals for the granting of licences to use all software (including the Software) necessary for the Authority's receipt of the Services and the provision of copies of all related documentation;
- 2.10.12 proposals for the transfer of all Authority Data then in the Provider's possession to either the Authority and/or a Replacement Provider, including:
 - (a) an inventory of all Authority Data;
 - (b) details of the data structures in which the Authority Data is stored, in the form of an agreed data model together with information on other data structures in which the Authority Data could be stored;
 - (c) proposed transfer methods, both physical and electronic; and
 - (d) proposed methods for ensuring the integrity of the Authority Data on transfer;
- 2.10.13 proposals for providing the Authority and/or a Replacement Provider with copies of all documentation used in the provision of the Services and necessarily required for the continued use thereof, in which the Intellectual Property Rights are owned by the Provider; and
- 2.10.14 proposals for the supply of any other information or assistance reasonably required by the Authority or a replacement Provider in order to affect an orderly hand over of the provision of the Services.

3.4 The Exit Management Plan shall be reviewed and updated by the Provider. In this regard, the Provider shall provide a revised version of the Exit Management Plan to the Authority on each year (or more frequently as may be agreed between the parties). The revised Exit Management Plan shall be reviewed and agreed in accordance with the provisions of paragraph 3.2 of this Schedule.

3.5 Within 20 Working Days after service of a notice to terminate this Agreement or any resultant Call-off Contract by either party or 6 months prior to the expiry of this Agreement, the Provider will submit for the Authority's approval the Exit Management Plan in a final form that could be implemented immediately. The final form of the Exit Management Plan shall be prepared on a basis consistent with the principles set out in this Schedule and shall reflect any changes in the Services that have occurred since the Exit Management Plan was last agreed.

4 Termination Obligations

4.1 The Provider shall comply with all of its obligations contained in the Exit Management Plan.

- 4.2 On termination or expiry of this Agreement or any resultant Call-off Contract for any reason, the Provider shall (to the extent that it does not adversely affect the Provider's performance of the Services and the Exit Management Plan):
- (a) immediately deliver to the Authority all Authority Assets (where applicable), copies of information, documentation and Data provided by the Authority to the Provider for the purposes of this Agreement or any resultant Call-off Contract;
 - (b) immediately repay to the Authority all Charges that it has been paid in respect of Services not provided by the Provider as at the date of expiry or termination or any other sums due to the Authority in accordance with this Agreement or any resultant Call-off Contract;
 - (c) cease to use the Authority Data;
 - (d) provide the Authority and/or the Replacement Provider with a complete and uncorrupted version of all Authority Data;
 - (e) certify to the Authority that it has not retained any copies of any Authority documentation or other information or data, except for one copy which the Provider may use for audit purposes only and subject to the confidentiality obligations in clause 17 of the General Terms;
 - (f) vacate any Authority Premises; and
 - (g) provide such information relating to the Services as remains in the possession or control of the Provider.
- 4.3 The provisions of clauses 13 (Limitation of Liability) 6 (Insurance), 155 (Freedom of Information), 16 (Data Protection), 177 (Confidentiality), 188 (Audit), 19 (Intellectual Property Rights) 20 (Termination for Breach) of the General Terms and this paragraph 4 shall survive termination or expiry of this Contract.
- 4.4 Termination or expiry of this Agreement or any resultant Call-off Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.
- 5 **Assistance on Expiry or Termination**
- 5.1 In the event that this Agreement or any resultant Call-off Contract expires or is terminated the Provider shall, where so requested by the Authority in accordance with this Schedule 9, provide assistance to the Authority to migrate the provision of the Services to a Replacement Provider.
- 6 **Not Used**
- 7 **Individual Placement Agreement on Expiry or Termination**
- 1.1.1.1. On expiry or termination of this Contract the Provider and Authority shall make all reasonable effort to assist, facilitate and enable any actions required in order to maintain the continuity of Services to Children and Young People, co-operating to ensure that the interests of Children and Young People are met under whatever new arrangements may be proposed.
- 1.1.1.2. The Authority shall ensure that any and all Placements are ended within the notice period. Should it reasonably foresee that this may not be practicable the Authority shall seek to extend the notice period with mutual consent, such consent shall not be unreasonably delayed or withheld. If the notice period is extended the Authority will pay up until discharge.
- 2.10.1 The Provider shall not be entitled to any additional costs unless agreed in writing.
- 1.1.1.3. Should a Young Person remain in a Placement with the Provider upon the termination date, only such an IPA as in force for that Young Person at that time shall remain so past termination, and

shall be held in itself to be a continuation of this Contract. Such an IPA shall be required to be terminated in line with clause Schedule 14A20.10 of Schedule 1 otherwise it shall be accepted that the IPA continue as if the Contract had not been terminated.

- 1.1.1.3.1. During such a period, the Provider undertakes to ensure Services are as prescribed within the Young Person's IPA, Care Plan, IE and/or PEP and the Authority shall undertake to bring about the end of any remaining IPA by removal of the Young Person within a reasonable time no longer than 28 days following the date of termination.

Schedule 10

Exit Management Plan

Guidance: To insert the pre-agreed Exit Management Plan if applicable.

If an Exit Management Plan is to be developed during the Contract, it should be inserted here when it is agreed by both parties.

If no Exit Management Plan is required, change the heading of this Schedule to Not Used

Schedule 11 Framework Agreement Variation Procedure

1. Permitted Changes

- 1.1. Schedule 11 details the scope of the variations permitted and the process to be followed where the Authority proposes a variation to this Agreement or any resultant Call-off Contract.
- 1.2. The Authority may propose a variation to this Agreement or any resultant Call-off Contract under Schedule 11 only where the variation does not amount to a material change in the Framework Agreement or the Services.
- 1.3. Changes to this Agreement or any resultant Call-off Contract shall be made only where:
 - (a) Such a Change is permitted by the Public Contracts Regulations 2015, Regulation 72(1)(b) to (f); or
 - (b) permitted under paragraph 1.4 below.
- 1.4. A Change is permitted where each of requirements (a) to (d) below is satisfied:
 - (a) the Change is of the following scope and nature:
 - i. increase in price; or
 - ii. extension to the term of the agreement;
 - iii. call-off procedures.
 - (b) the price of the Change is calculated as follows:
 - i. applying the agreed uplift to the price prevailing at the time of the Change.
 - (c) the circumstances necessitating the Change are:
 - i. annual price review; or
 - ii. extension to the Framework Agreement; or
 - iii. changes to Authority placement procedures.
 - (d) the Change does not alter the overall nature of the Agreement.

2. General Principles

- 2.1 Where the Authority or a Framework Provider sees a need to change this Agreement or any resultant Call-off Contract, the Authority may at any time request and a Framework Provider may at any time recommend, such Change only in accordance with the Change Control Procedure set out in clause 3 of this Schedule 11.
- 2.2 Until such time as a Change is made in accordance with the Change Control Procedure, the Authority and the Framework Providers shall continue to perform this Agreement or any resultant Call-off Contract in compliance with its terms before such Change.
- 2.3 Any discussions which may take place between the Authority and the Framework Providers in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 2.4 Any work undertaken by Framework Providers and the Framework Providers' Personnel which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Schedule 11 shall be undertaken entirely at the expense and liability of the Framework Provider.

3. Procedure for Proposing a Variation to the Framework Agreement

Authority Request for Change

- 3.1 Except where clause 5 applies, the Authority may propose a variation using the procedure contained in this clause 3.

- 3.2 In order to propose a variation, the Authority shall serve each Framework Provider with written notice of the proposal to vary the Framework Agreement (**Notice of Variation**).
- 3.3 The Notice of Variation shall:
- (a) contain details of the proposed variation providing sufficient information to allow each Framework Provider to assess the variation and consider whether any changes to the prices set out in its Pricing Matrices are necessary; and
 - (b) require each Framework Provider to notify the Authority within 28 days of any proposed changes to the prices set out in its Pricing Matrices.
- 3.4 On receipt of the Notice of Variation, each Framework Provider has 14 days to respond in writing with any objections to the variation.
- 3.5 Where the Authority does not receive any written objections to the variation within the timescales detailed in paragraph 2.4, the Authority may then serve each Framework Provider with a written agreement detailing the variation to be signed and returned by each Framework Provider within 7 days of receipt.
- 3.6 On receipt of a signed agreement from each Framework Provider, the Authority shall notify all Framework Providers in writing of the commencement date of the variation.

Framework Provider Request for Change

- 3.7 A recommendation to amend this Agreement by a Framework Provider shall be submitted directly to the Authority in the form of a Change Control Note signed by the Provider at the time of such recommendation. The Authority shall give its response to the Change Control Note within three weeks.
- 3.8 Each Change Control Note shall contain:
- (a) the title of the Change;
 - (b) the originator and date of the request or recommendation for the Change;
 - (c) the reason for the Change;
 - (d) full details of the Change, including any specifications;
 - (e) the price, if any, of the Change;
 - (f) a timetable for implementation, together with any proposals for acceptance of the Change;
 - (g) a schedule of payments if appropriate;
 - (h) details of the likely impact, if any, of the Change on other aspects of this Agreement including:
 - i. the timetable for the provision of the Change;
 - ii. the personnel to be provided;
 - iii. the Charges;
 - iv. the Documentation to be provided;
 - v. the training to be provided;
 - vi. working arrangements;
 - vii. other contractual issues;
 - viii. the date of expiry of validity of the Change Control Note; and
- 3.9 For each Change Control Note submitted by a Framework Provider the Authority shall, within the period of the validity of the Change Control Note:
- (a) allocate a sequential number to the Change Control Note; and
 - (b) evaluate the Change Control Note and, as appropriate:
 - i. request further information;
 - ii. issue a Notice of Variation to the Framework Providers to be responded to in accordance with clauses 3.1 to 3.6 ; or
 - iii. notify the Framework Provider of the rejection of the Change Control Note.

- 3.10 A formal variation signed by the Authority and each of the Framework Providers shall constitute an amendment to this Agreement.

4. Objections to a Variation

- 4.1 In the event that the Authority receives one or more written objections to a variation, the Authority may:
- (a) withdraw the proposed variation; or
 - (b) propose an amendment to the variation.

5. Variations that are not Permitted

- 5.1 In addition to the provisions contained in clause 1, the Authority may not propose any variation that:
- (a) may prevent one or more of the Framework Providers from performing its obligations under the Framework Agreement; or
 - (b) that results in a change to the tendered prices of one or more Framework Providers, save for those changes permitted within Schedule 8 of this Agreement; or
 - (c) is in contravention of any Law.

Schedule 14 Call-Off Terms and Conditions

This Call-Off Contract is made on the date the individual placement called-off from this Framework Agreement is agreed between the Authority and the Provider subject to the terms set out in the schedules listed below (**Schedules**). The Authority and the Provider undertake to comply with the provisions of the Schedules in the performance of this Call-Off Contract.

The Provider shall supply to the Authority, and the Authority shall receive and pay for, the Services on the terms of this Call-Off Contract.

The Definitions in **Error! Reference source not found.** apply to the use of all capitalised terms in this Contract.

Schedules

Schedule 14A	Key Provisions
Schedule 14B	General Terms
Error! Reference source not found.	Change Control Procedure
Error! Reference source not found.	Form of Default Notice
Error! Reference source not found.	Contract Performance Monitoring and Evaluation Provisions

Schedule 14A Key Provisions

Background

- (A) Under this Call-Off Contract the Authority makes no guarantee that it will make any placements with the Provider.
- (B) Documents that form part of this Call-Off Contract are
- (i) the Framework Agreement, the Front Sheet and its associated Schedules; and
 - (ii) the completed tender documents including the Specification, Provider Tender Response Payment Schedule, and any other supporting documentation as set out in the Framework Agreement; and
 - (iii) this Call-off Contract and its associated Schedules.

Standard Key Provisions

1. Application of the Key Provisions

- 1.1 The standard Key Provisions at clauses 1 to 5 of these Key Provisions shall apply to this Call-Off Contract.
- 1.2 The optional Key Provisions at clauses 6 to 35 of these Key Provisions shall apply to this Call-Off Contract if they are set out in the section below. The tick boxes are purely for administrative purposes and have no bearing on the terms of this Call-Off Contract
- 1.3 Extra Key Provisions shall only apply to this Call-Off Contract where such provisions are set out at the end of this Schedule 14A.

2. Term

- 2.1 This Call-Off Contract shall take effect on the Commencement Date and shall continue for the Term agreed through the referral process unless terminated early or extended as appropriate in accordance with the terms conditions or clauses of this Call-Off Contract.

3. Authorised Representatives

- 3.1 At the commencement of this Call-Off Contract the authorised representatives for the Authority and the Provider shall be as set out in clause 3 of the Key Provisions of the Framework Agreement.

4. Names and Addresses for Notices

- 4.1 Notices served under this Call-Off Contract are to be delivered to the individuals named in clause 4 of the Key Provisions of the Framework Agreement.

5. Order of Precedence

- 5.1 Should there be a conflict between any other parts of this Call-Off Contract the order of priority for construction purposes shall be:
- (a) Schedule 14A Key Provisions;
 - (a) **Error! Reference source not found.:** Payment Schedule;
 - (b) Schedule 14B: General Terms;
 - (c) Schedule 14E: Contract Performance Monitoring and Evaluation Provisions; and
 - (d) the order in which all subsequent schedules, if any, appear.

Optional Key Provisions

<input type="checkbox"/>	6. Not Used
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<input type="checkbox"/>	7. Not Used
<input type="checkbox"/>	8. Not Used
<input type="checkbox"/>	9. Not Used
<input checked="" type="checkbox"/>	<p>10. Step-in Rights</p> <p>10.1 The Authority may take action under this clause in the following circumstances:</p> <ul style="list-style-type: none"> (a) an event occurs entitling the Authority to terminate in accordance with clause 20 of the General Terms; (b) there is a breach by the Provider of its obligations that is materially preventing or materially delaying the performance of the Services or any part of the Services; (c) there is a delay that has or the Authority reasonably anticipates will result in the Provider's failure to provide any aspect of the Services by an agreed date; (d) a Force Majeure Event occurs which materially prevents or materially delays the performance of the Services or any part of the Services; (e) where the Provider is not in breach of its obligations under this Call-Off Contract but the Authority considers that the circumstances constitute an emergency; (f) because a serious risk exists to the health or safety of persons, property or the environment; (g) to discharge a statutory duty; and/or (h) on the occurrence of an Insolvency Event in respect of the Provider. <p>Action to be taken prior to exercise of the right to step in</p> <p>10.2 Before the Authority exercises its right of step-in under this clause 10 it shall permit the Provider the opportunity to demonstrate to the Authority's reasonable satisfaction within 14 Working Days that the Provider is still able to provide the Services in accordance with the terms of this Call-Off Contract and/or remedy the circumstances giving rise to the right to step-in without the requirement for the Authority to take action.</p> <p>10.3 If the Authority is not satisfied with the Provider's demonstration pursuant to clause 10.2, the Authority may:</p> <ul style="list-style-type: none"> (a) where the Authority considers it expedient to do so, require the Provider by notice in writing to take those steps that the Authority considers necessary or expedient to mitigate or rectify the state of affairs giving rising to the Authority's right to step-in; (b) appoint any person to work with the Provider in performing all or a part of the Services (including those provided by any Sub-Contractor); or (c) take the steps that the Authority considers appropriate to ensure the performance of all or part of the Services (including those provided by any Sub-Contractor). <p>10.4 The Provider shall co-operate fully and in good faith with the Authority, or any other person appointed in respect of clause 10.3(b) and shall adopt</p>

	<p>any reasonable methodology in providing the Services recommended by the Authority or that person.</p> <p>Exercise of the right of step in</p> <p>10.5 If the Provider:</p> <ul style="list-style-type: none"> (a) fails to confirm within 10 Working Days of a notice served pursuant to clause 10.3(a) that it is willing to comply with that notice; or (b) fails to work with a person appointed in accordance with clause 10.3(b)(b); or (c) fails to take the steps notified to it by the Authority pursuant to clause 10.3(c), <p>then the Authority may take action under this clause either through itself or with the assistance of third party contractors, provided that the Provider may require any third parties to comply with a confidentiality undertaking equivalent to clause 17 of the General Terms.</p> <p>10.6 If the Authority takes action pursuant to clause 10.5, the Authority shall serve notice (Step-in Notice) on the Provider. The Step-in Notice shall set out the following:</p> <ul style="list-style-type: none"> (a) the action the Authority wishes to take and in particular the Services it wishes to control; (b) the reason for and the objective of taking the action and whether the Authority reasonably believes that the primary cause of the action is due to the Provider's default; (c) the date it wishes to commence the action; (d) the time period which it believes will be necessary for the action; (e) whether the Authority will require access to the Provider's premises; (f) to the extent practicable, the effect on the Provider and its obligations to provide the Services during the period the action is being taken. <p>10.7 Following service of a Step-in Notice, the Authority shall:</p> <ul style="list-style-type: none"> (a) take the action set out in the Step-in Notice and any consequential additional action as it reasonably believes is necessary to achieve (together, the Required Action); (b) keep records of the Required Action taken and provide information about the Required Action to the Provider; (c) co-operate wherever reasonable with the Provider in order to enable the Provider to continue to provide any Services in relation to which the Authority is not assuming control; and (d) act reasonably in mitigating the cost that the Provider will incur as a result of the exercise of the Authority's rights under this clause. <p>10.8 For so long as and to the extent that the Required Action is continuing, then:</p> <ul style="list-style-type: none"> (a) the Provider shall not be obliged to provide the Services to the extent that they are the subject of the Required Action; (b) subject to clause 10.9, the Authority shall pay to the Provider the Charges after any applicable deductions in accordance with
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	<p>the terms of this Call-Off Contract and the Authority's costs of taking the Required Action.</p> <p>10.9 If the Required Action results in:</p> <p>(a) the degradation of any Services not subject to the Required Action; or</p> <p>(b) the failure for the Services to be provided by an agreed date, beyond that which would have been the case had the Authority not taken the Required Action, then the Provider shall be entitled to an agreed adjustment of the Charges, provided that the Provider can demonstrate to the reasonable satisfaction of the Authority that the Required Action has led to the degradation or non-achievement.</p> <p>10.10 Before ceasing to exercise its step in rights under this clause the Authority shall deliver a written notice to the Provider (Step-Out Notice), specifying:</p> <p>(a) the Required Action it has actually taken; and</p> <p>(b) the date on which the Authority plans to end the Required Action (Step-Out Date) subject to the Authority being satisfied with the Provider's ability to resume the provision of the Services and the Provider's plan developed in accordance with clause 10.11.</p> <p>10.11 The Provider shall, following receipt of a Step-Out Notice and not less than 20 Working Days prior to the Step-Out Date, develop for the Authority's approval a draft plan (Step-Out Plan) relating to the resumption by the Provider of the Services, including any action the Provider proposes to take to ensure that the affected Services satisfy the requirements of this Call-Off Contract.</p> <p>10.12 If the Authority does not approve the draft Step-Out Plan, the Authority shall inform the Provider of its reasons for not approving it. The Provider shall then revise the draft Step-Out Plan taking those reasons into account and shall re-submit the revised plan to the Authority for the Authority's approval. The Authority shall not withhold or delay its approval of the draft Step-Out Plan unnecessarily.</p> <p>10.13 The Provider shall bear its own costs in connection with any step-in by the Authority under this clause 10.</p>
<input checked="" type="checkbox"/>	<p>11. Exit Management and Consequences of Termination</p> <p>11.1 The parties shall comply with the provisions of Schedule 9 in relation to orderly transition of the Services to the Authority or a Replacement Provider.</p>
<input type="checkbox"/>	<p>12. Not Used</p>
<input type="checkbox"/>	<p>12.1 Not Used</p>
<input type="checkbox"/>	<p>13. Not Used</p>
<input type="checkbox"/>	<p>14. Not Used</p>
<input checked="" type="checkbox"/>	<p>15. Safeguarding Children and Vulnerable Adults</p> <p>15.1 The parties acknowledge that the Provider is a Regulated Activity Provider with ultimate responsibility for the management and control of the Regulated Activity provided under this Call-Off Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006.</p>

	<p>15.2 The Provider shall:</p> <ul style="list-style-type: none"> (a) ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service; (b) monitor the level and validity of the checks under this clause 15 for each member of staff; (c) ensure that no member of their staff or sub-contractor is permitted to provide Services until all the necessary checks have been undertaken and the checks are satisfactory; (d) not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Service Users. <p>15.3 Any employee of the Provider whose alleged conduct places a Young Person at risk or might bring the Authority into disrepute shall be the subject of immediate investigation by the Provider and dealt with appropriately and the Authority shall be informed immediately if the details of the incident and the actions taken to remedy the situation.</p> <p>15.4 The Provider warrants that at all times for the purposes of this Call-Off Contract it has no reason to believe that any person who is or will be employed or engaged by the Provider in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.</p> <p>15.5 The Provider shall sign up to the Authority's internal safeguarding policies and shall ensure that the Services are carried out in accordance with these policies at all times.</p> <p>15.6 The Provider shall immediately notify the Authority of any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 15 have been met.</p> <p>15.7 The Provider shall refer information about any person carrying out the Services to the Disclose and Barring Service where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to the service users, children, or vulnerable adults.</p>
☒	<p>16. Best Value, Monitoring and Review</p> <p>Best Value</p> <p>16.1 The Provider shall provide such assistance and information that the Authority may reasonably require to enable the Authority to discharge and fulfil its Best Value Duty in relation to the Service.</p> <p>Monitoring and Review of Service Provision</p> <p>16.2 Review meetings and reporting in relation to the Young People placed within the accommodation shall be undertaken in accordance with the requirements set out in the Specification.</p> <p>16.3 The Provider shall co-operate with monitoring and evaluation activities undertaken by the Authority in relation to this Call-Off Contract.</p> <p>16.4 The Provider shall co-operate with supplying timely information as requested by the Authority in line with the requirements of this Call-Off Contract.</p>

	<p>16.5 The monitoring referred to above is additional to any requirements made by any appropriate registration and inspection body or any other regulatory body or organisation that may apply, at any point during the term of the Contract, in respect of the activities performed under this Contract.</p> <p>16.6 The Authority and/or any person authorised by the Authority shall have the right to visit and inspect, without notice, the Provider and any Young Person whose care is being funded by the Authority under this Call-Off Contract, without prejudice to the Young Person's right to privacy.</p> <p>16.7 The Provider shall maintain and enforce a rigorous quality assurance policy to ensure the Service is operated to a continuous high standard.</p> <p>16.8 The Authority is entitled to monitor the Provider's performance of its obligations under this Call-Off Contract by whatever reasonable means that it considers appropriate, provided that the Authority exercises that right in a reasonable and considerate manner, so as not to cause any unreasonable disturbance or inconvenience to either the Provider or the day to day operation of the Service.</p> <p>16.9 The intention of the Call-Off Contract Performance Monitoring and Evaluation Provisions set out in Schedule 16 is to facilitate, on each general formal review under the Call-Off Contract, or any specific formal review under an IPA a mean of analysing the performance indicators set out in Schedule 16 on a systematic basis.</p> <p>16.10 The Parties shall in this manner identify the ways in which the Service is meeting the different care and educational needs of each Young Person, how far this means, in relation to each need, a satisfactory standard of service is being provided, any improvements that are required, and any improvements or developments that are desirable to maintain and improve the level of service delivery.</p> <p>16.11 The Parties shall as an output of each formal review produce in writing an agreed action plan setting out such required and desirable improvements/developments and reasonable means and timescales for their application.</p> <p>16.12 The Provider shall make any required improvements and use its best endeavours to fulfil the agreed desirable action points in accordance with the relevant action plan. Each action plan shall be reviewed at the next and each subsequent formal review meeting and otherwise as agreed between the Parties.</p>
<input checked="" type="checkbox"/>	<p>17. Continuous Improvement</p> <p>17.1 The Provider agrees to ensure continual improvement in the delivery of Services as regards economy, efficiency and effectiveness throughout the duration of the Call-Off Contract.</p> <p>17.2 The Provider shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services. As part of this obligation the Provider shall identify and report to the Authority's Authorised Representative for the remainder of the Term on:</p> <ul style="list-style-type: none"> (a) the emergence of new and evolving relevant technologies which could improve the Services; (b) new or potential improvements to the Services; and (c) changes in ways of working that would enable the Services to be delivered at lower costs and/or at greater benefits to the Authority.

	17.3	Any potential Changes highlighted as a result of the Provider's reporting in accordance with clause 17.1 shall be addressed by the parties using the Change Control Procedure.
<input type="checkbox"/>	18.	Not Used
<input checked="" type="checkbox"/>	19. Quality Control	<p>19.1 It shall be the duty of the Provider well and properly to provide the Service to a standard which is in all respects to the reasonable satisfaction of the Authority and to comply in all respects with the Call-Off Contract.</p> <p>19.2 The Provider shall ensure that neither it, nor any of its Staff or sub-contractors embarrasses the Authority or otherwise brings the Authority into disrepute by engaging in or permitting any political activities on Authority premises or by any other act or omission relating to the performance of the Services which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Provider's obligations under this Agreement.</p> <p>19.3 The Provider shall deal with any complaints received (whether oral or written whether from the Authority or others) in a prompt, courteous and efficient manner and in accordance with its complaints procedure (a copy of which is available to the Authority upon demand).</p> <p>19.4 Unresolved complaints received or referred to the Authority may be investigated by the Authority, possibly making use of the Authority's own complaints procedure, which may, where it considers it appropriate, issue a Default Notice to the Provider.</p> <p>19.5 The Provider shall throughout the Call-Off Contract Period institute and maintain a properly documented system of quality control designed to ensure that the Services are provided at all times and in all respects in accordance with the Call-Off Contract. Such a system shall</p> <ul style="list-style-type: none"> (a) include daily supervision and the carrying out of frequent inspections of buildings, sites and locations at which the Services are to be provided and equipment used by the Provider; and (b) ensure the recording of any complaints received in connection with the provision or failure to provide the Service, (whether received orally or in writing and whether from members of the public or others) detailing the nature of the complaint, the name of the complainant, the time and date it was received, the action taken by the Provider in respect of each such complaint, and the names of the Provider's staff involved in the action complained of and its remedy. <p>19.6 The system maintained by the Provider in accordance with this condition shall be in addition to, and shall not prejudice:</p> <ul style="list-style-type: none"> (a) any independent inspection undertaken by the Authority; (b) the award of any Default Notice. <p>19.7 The system shall be operated by the Contract Manager on behalf of the Provider and shall be open to inspection at any time by the Authority. In the event that any reasonable recommendations concerning the improvement of the system are made by the Authority from time to time, such recommendation shall forthwith be implemented by the Provider.</p>

	19.8	The Authority shall have the right at any time to interview any member of the Provider's staff in connection with the carrying out of all or any of the Services. 24 hours' notice will be given to the Contract Manager.
	19.9	The Authority shall also be entitled to request any information relating to the carrying out of the Services and such information shall be supplied by the Provider forthwith upon request.

Additional Key Provisions

<input checked="" type="checkbox"/>	20. Individual Placement Agreement (IPA) For Children Looked After and/or Care Leavers
	20.1 Except where specifically provided to the contrary in an IPA, each IPA shall be subject to this Contract. Insofar as any condition in an IPA conflicts with this Contract, the IPA shall to the extent only of such IPA prevail. Variations to any IPA made under this Contract may be made in accordance with the terms of this Contract with the agreement of both Parties.
	20.2 For each Looked After Child or Care Leaver placed, an IPA shall be issued by the Authority for completion by the Provider and the Authority. Once complete the IPA shall be signed by both Parties.
	20.3 The complete IPA shall be issued by the date of commencement of the Placement. In the case of emergencies, an IPA shall be issued as soon as possible after the date of commencement and in any event no later than 28 Working Days thereafter.
	20.4 Variations to any IPA made under this Contract may be made in accordance with the Terms of this Contract with the unqualified agreement of both Parties.
	20.5 The IPA shall be reviewed as a minimum in accordance with the statutory requirements. Wherever possible 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 Young Person.
	20.6 Urgent Review meetings shall normally be convened within 5 Working Days and preferably within 72 hours.
	20.7 Following the Review meeting any changes discussed regarding the IPA shall not be implemented until relevant documentation has been updated by the Authorised Officer. The updated documentation shall reflect the change(s) in assessed need and fair and reasonable costs implications following from the agreed change(s) in assessed need. It shall have been authorised by the Authority's Authorised Officer and confirmed in writing.
	20.8 Change to the Services provided as identified in this clause shall 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 shall not be processed for payment by the Authority.
	20.9 The IPA templates can be found at Appendix M and Appendix N.
	Termination of the Individual Placement Agreement (IPA)
	20.10 An IPA may end by the expiry of the contract period specified in the IPA or by the termination on the following periods of notice in writing by either Party:

	<ul style="list-style-type: none"> (a) One day if the Young Person has been in the Placement for 7 days or less; (b) Seven days if the Young Person has been in the Placement for more than 7 days and less than 12 weeks; (c) Fourteen days if the Young Person has been in the Placement for more than 12 weeks and less than 6 calendar months; (d) Twenty eight days if the Young Person has been in the Placement for more than 6 calendar months.
20.11	A final written assessment shall be produced by the Provider before the Young Person leaves the accommodation.
20.12	<p>Either party may terminate an IPA with a lesser period of notice or with immediate effect following review by the Authority of the Placement in question, under the following circumstances:</p> <ul style="list-style-type: none"> (a) The Young Person's needs cannot be met; (b) The placement has broken down; (c) There is potential for significant harm to the Young Person or another Young Person accommodated or to the accommodation staff; (d) As recommended by the local Safeguarding Board; (e) Where mutually agreed.
20.13	Where the Young Person is required by Court to live elsewhere the IPA will be terminated immediately.
20.14	Where a Young Person has died the IPA shall be terminated 7 days following the date of death. During this time the Authority and the Provider shall work together to make appropriate arrangements and responses to any coroner inquest, funeral arrangements and transfer of personal belongings.
20.15	In all such circumstances the Parties shall work together to safeguard the interests of the Young Person until such time as alternative arrangements can be made. Any varied Services provided and changing costs incurred to maintain a Placement will be agreed at the Review meeting.
20.16	The serving of notice for termination of the Contract will automatically terminate any IPA at the expiry of the notice period.
20.17	Either Party may terminate the IPA immediately if the Young Person discharges themselves from the Placement.
20.18	In all circumstances, payment for Services under the IPA will cease from the expiry of the notice period for the IPA.
20.19	Subject to any adjustment or set off for damages to cover losses of the Party not in breach the Authority shall calculate the monies outstanding to either pay the Provider where fees are paid retrospectively or, recover from the Provider where fees have exceptionally been paid in advance.
20.20	If a Young Person who is placed at the accommodation under this agreement becomes Absent from the accommodation, or becomes missing from the accommodation or absconds from the accommodation (i.e., unauthorised Absence), then the Provider shall immediately notify the Authority's individual with case management responsibility and if required the Contracts/Commissioning contact. Unless notice to terminate the IPA has already been served by either of the Parties

		pursuant to clause 20.10, the 28 days' notice shall be deemed to have been served by the Provider which shall commence on the date that the Young Person in question left the accommodation unless otherwise agreed by both Parties.
<input checked="" type="checkbox"/>	21. Health and Safety	<p>21.1 In the event that this clause applies, the following shall form the wording of clause 5.6 of the General Terms.</p> <p>21.2 The Provider must inform the Authority immediately in writing if any action is threatened or taken against the Provider by the Health and Safety Executive.</p>
<input checked="" type="checkbox"/>	22. Equalities Policy	<p>22.1 The Provider shall fully comply with the Equality Act 2010 and all other anti-discriminatory Legislation, as amended or re-enacted from time to time, and operate an Equalities policy for as long as this Call-Off Contract is in force and provide the Authority with a copy of the policy and updates as requested.</p> <p>22.2 The Provider shall ensure that their recruitment, employment and equalities policies fully comply with all statutory obligations;</p> <p>22.3 The Provider shall notify the Authority's Authorised Officer immediately in writing as soon as it becomes aware of any investigation of, or proceedings brought against the Provider under equal opportunities Legislation, and co-operate fully and promptly in every way required by the person or body conducting such investigation during the course of that investigation.</p>
<input checked="" type="checkbox"/>	23. Local Government Ombudsman	<p>23.1 Under the Local Government Act 1974, Section 26(1), the local government ombudsman may investigate a complaint about an action taken by a Provider when undertaking work on behalf of the Authority.</p> <p>23.2 The Provider shall co-operate fully with any such investigation and will reimburse to the Authority any payment made to the complainant by the Authority, either when an investigation by the ombudsman leads to a finding of maladministration and injustice as a result of fault by the Provider, or where a payment is made under the terms of an early settlement of a complaint to the ombudsman without a formal investigation and report.</p>
<input checked="" type="checkbox"/>	24. Environment	<p>24.1 The Provider shall endeavour to ensure that during the performance of the Call-Off Contract they use working methods, equipment, materials and consumables which minimise environmental damage.</p>
<input checked="" type="checkbox"/>	25. Children and Young People's Rights	<p>25.1 The Provider shall at all times in its performance of the Services and its treatment of children and young people have regards to, and abide by the principles of the Human Rights Act 1998, the European Convention on Human Rights and the provisions of the Children Act 1989.</p> <p>25.2 The Provider shall have a clear policy and procedure in relation to the rights of young people that fully comply with:</p> <ul style="list-style-type: none"> (a) The Children Act 1989 as amended from time to time; (b) The UN Convention on the Rights of the Child (Article 12);

	<p>(c) The National Standards for the Provision of Children's Advocacy Services 2003;</p> <p>25.3 The policy and procedure shall be made clear to Staff by the Provider through induction, training and development, staff meetings and supervision.</p> <p>25.4 The Provider shall ensure that information is designed with participation of children and young people and is produced in a variety of ways to ensure that the needs of children and young people with specific needs are met, e.g. Braille, audio tapes, different languages, pictures and symbols.</p> <p>25.5 The Provider shall fully comply with all Legislation, regulatory requirements and codes of practice applicable to the provision of the Services and shall fully comply with all further reasonable written requirements and instructions of the Authority in relation to any IPA.</p>
<input checked="" type="checkbox"/>	<p>26. Conflict of Interest</p> <p>26.1 The Provider shall inform the Authority in writing if any elected representative of the Authority or employee of the Authority, are involved in any way, other than in accordance with the requirements of their official duties, with the Provider at any time for the duration of this Call-Off Contract.</p> <p>26.2 The Provider shall ensure that it has a procedure that effectively meets all relevant professional codes of practice relating to conflict of interest and if necessary, shall make amendments to practice to ensure that it continues to so throughout the duration of the Call-Off Contract. The Provider shall also ensure that this procedure is observed at all times and that it prevents the occurrence of situations not only where a conflict has arisen, but where one is likely to arise. If required by the Authority, a separation of duties will be implemented by the Provider to prevent such conflicts of interest.</p>
<input checked="" type="checkbox"/>	<p>27. Provider's Personnel Used to Provide the Services</p> <p>27.1 In the event that this clause applies, the following shall form the wording of clauses 9.6 to 9.8 of the General Terms.</p> <p>27.2 The Provider shall ensure that every individual deployed under the Call-Off Contract in the provision of the Services is instructed in relation to all relevant provisions of the Call-Off Contract.</p> <p>27.3 The Provider shall ensure that Staff are familiar with the Provider's policies and procedures through induction, ongoing supervision and training.</p>
<input checked="" type="checkbox"/>	<p>28. Records, Information Sharing and Data Protection</p> <p>28.1 The Authority agrees to the release of information relating to the performance of the Provider to any duly authorised third parties. Such third parties will include any agency, which purchases from, monitors or inspects the Provider. Examples include, but are not limited to:</p> <ul style="list-style-type: none"> (a) Relevant regulatory Council; (b) Environmental health officers; (c) Fire authorities; (d) Health and Safety Executive officers; (e) Other local councils;

	<p>28.2 The Authority shall provide the Provider with all available relevant information concerning any Young Person placed, in writing prior to the date of commencement of the Placement. In the case of emergencies, this information will be issued as soon as possible after the date of commencement but within 7 Working Days.</p> <p>28.3 The Authority shall not knowingly withhold from the Provider any relevant information concerning any Young Person placed with the Provider for the duration of the Placement.</p> <p>28.4 The Provider shall immediately provide any information requested by, or on behalf of the Authority, for any purpose connected with this Call-Off Contract or the conduct of the Provider's duties relating to the provision of the Service, at no additional cost to the Authority and delivered in the spirit of co-operation.</p> <p>28.5 The Authority and the Provider must fully comply with the General Data Protection Regulation and the Caldicott Principles.</p> <p>28.6 The Provider and the Authority warrant that they shall duly observe and co-operate with each other to ensure the observance of all their obligations under the General Data Protection Regulation which arise in connection with this Call-Off Contract.</p> <p>28.7 For the purpose of this Call-Off Contract the Provider is deemed to be the data controller. Where in the course of performing this Call-Off Contract the Provider has access to personal data for which the Authority is the controller as defined in the General Data Protection Regulation, the Provider must ensure that such data is used only for the purpose of performing the Call-Off Contract. The Provider shall provide appropriate technical and organisational measures against unauthorised or unlawful processing, and accidental loss or destruction of, or damage to, such data.</p> <p>28.8 The Provider will facilitate the Authority's full compliance, in connection with this Call-Off Contract, with the Authority's obligations under the FOIA and fully comply with any reasonable request from the Authority for that purpose within 10 Working Days of the request being made.</p> <p>28.9 For the purpose of this Call-Off Contract confidential information will exclude any information that the Authority is obliged to disclose to a person under the provision of the FOIA and any codes of practice and guidance issued by the government and the Information Commissioner.</p>
☒	<p>29. Confidentiality</p> <p>29.1 In the event that this clause applies, the following shall form the wording of clauses 18.9 to 18.14 of the General Terms.</p> <p>29.2 Both Parties to this Call-Off Contract agree that the information made available as a result of this Call-Off Contract shall not infringe or prejudice the right of the confidentiality of children or young people and their families, or Provider Staff.</p> <p>29.3 However, both the Authority and the Provider shall have the right (singularly in an emergency or jointly when time allows), to determine when confidentiality must be broken in the best interests of the Young Person, particularly in respect of their safety and welfare. Where either the Authority or the Provider have acted singularly they shall inform the other Party within the next 3 Working Days in writing providing reasons for their actions.</p> <p>29.4 The Authority and the Provider shall have a policy on confidentiality fully complying with the Freedom of Information Act 2000 and the key</p>

	<p>elements of the General Data Protection Regulation and shall have effective mechanisms in place to ensure full compliance.</p> <p>29.5 Furthermore the Provider shall have a robust policy on the maintenance and destruction of files which shall consider the need to respond to any future claims for liability against the Provider or the Authority and meet the requirements of Legislation.</p>
<input checked="" type="checkbox"/>	<p>30. Planned / Emergency Closure of the Accommodation</p> <p>30.1 Either Party shall give the other Party no less than 3 months written notice of any proposals to close the accommodation or any intended closure of the accommodation.</p> <p>30.2 In the event of a potential or actual emergency closure of the accommodation, the regulatory body and the Authority must be informed immediately and the Parties will work together to safeguard the interests of the young people, until such time as alternative arrangements can be made.</p>

Schedule 14B General Terms

1. Supply of Services

- 1.1 The Provider shall provide the Services to the Authority with effect from the Commencement Date and for the duration of this Call-Off Contract in accordance with the provisions of this Call-Off Contract.
- 1.2 In the event that the Provider does not comply with the provisions of clause 1.1 in any way, the Authority may serve the Provider with a notice in writing setting out the details of the Provider's default (a Default Notice). The Default Notice shall be in the form set out in Schedule 14D.

2. Service Levels

- 2.1 The Service Level Arrangements (if any) shall apply with effect from the Commencement Date (unless the Specification provides to the contrary).

3. Compliance

- 3.1 The Provider shall ensure that all Necessary Consents are in place to provide the Services and the Authority shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.
- 3.2 Where there is any conflict or inconsistency between the provisions of the Call-Off Contract and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Provider has used best endeavours to obtain a Necessary Consent in line with the requirements of the Services.
- 3.3 Without prejudice to clause 1.1, the Provider shall provide the Services, or procure that they are provided:
 - (a) with all reasonable skill and care and in accordance with Best Industry Practice;
 - (b) in all respects in accordance with the Authority's requirements set out in the Specification which may from time to time be amended in accordance with this Call-Off Contract by the Authority ; and
 - (c) in accordance with all applicable laws.
- 3.4 Without limiting the general obligation set out in clause 3.1, the Provider shall (and shall procure that the Provider's Personnel shall):
 - (a) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Call-Off Contract. The Provider shall also undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998;
 - (b) not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment; and
 - (c) any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under **applicable equality law.**

4. Authority Premises and Authority Assets

- 4.1 The Authority shall, subject to clause 2.2 and clause 8, provide the Provider (and its Sub-Contractors) with access to such parts of the Authority Premises as the Provider reasonably requires for the purposes only of properly providing the Services.
- 4.2 The Authority shall provide the Provider with such accommodation and facilities in the Authority Premises as agreed by the parties from time to time.
- 4.3 Subject to the requirements of the Key Provisions on exit management (if relevant), in the event of the expiry or termination of the Call-Off Contract, the Authority shall on reasonable notice provide the Provider with such access as the Provider reasonably requires to the Authority Premises to remove any of the Provider's equipment. All such equipment shall be promptly removed by the Provider.
- 4.4 The Provider shall ensure that:

- (a) where using the Authority Premises and any Authority Assets they are kept properly secure and it will comply and cooperate with the Authority Authorised Representative's reasonable directions regarding the security of the same;
 - (b) only those of the Provider's Personnel that are duly authorised to enter upon the Authority Premises for the purposes of providing the Services, do so;
 - (c) any Authority Assets used by the Provider are not removed from Authority Premises unless expressly permitted under this Call-Off Contract or by the Authority Authorised Representative.
- 4.5 The Provider shall notify the Authority immediately on becoming aware of any damage caused by the Provider, its agents, employees or Sub-Contractors to any property of the Authority, to any of the Authority Premises or to any property of any other recipient of the Services in the course of providing the Services.
- 5. Health and Safety**
 - 5.1 The Provider shall promptly notify the Authority of any health and safety hazards, which may arise in connection with the performance of the Call-Off Contract. The Authority shall promptly notify the Provider of any health and safety hazards that may exist or arise at the Authority Premises and that may affect the Provider in the performance of the Call-Off Contract.
 - 5.2 While on the Authority Premises, the Provider shall comply with any health and safety measures implemented by the Authority in respect of staff and other persons working on the Authority Premises.
 - 5.3 The Provider shall notify the Authority immediately in the event of any incident occurring in the performance of the Call-Off Contract on the Authority Premises where that incident causes any personal injury or damage to property that could give rise to personal injury.
 - 5.4 The Provider shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to staff and other persons working on the Authority's Premises in the performance of the Call-Off Contract.
 - 5.5 The Provider shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Authority on request.
- 6. Charges and Payment**
 - 6.1 In consideration of the provision of the Services by the Provider in accordance with the terms and conditions of this Call-Off Contract, the Authority shall pay the Charges to the Provider.
 - 6.2 The Charges shall be calculated as set out in the Payment Schedule.
 - 6.3 Unless otherwise stated in the Payment Schedule the Charges:
 - (a) shall be payable from the Commencement Date;
 - (b) shall remain fixed during the Term unless agreed by both parties; and
 - (c) are the entire price payable by the Authority to the Provider in respect of the Services and includes, without limitation, any royalties, licence fees, supplies and all consumables used by the Provider, travel costs, accommodation expenses and the cost of Provider Personnel.
 - 6.4 The Authority shall pay each invoice received by the Provider within 30 days of the date when Authority has determined that the invoice is a valid and undisputed invoice. The Provider shall accept payment electronically via BACS.
 - 6.5 The Authority will consider and verify any invoices submitted by the Provider for payment in a timely fashion and agrees that undue delay in doing so is not to be regarded as sufficient justification for failing to treat an invoice as valid and undisputed.
 - 6.6 Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with the Dispute Resolution Procedure. Provided that the sum has been disputed

in good faith, interest due on any sums in dispute shall not accrue until the earlier of 30 days after resolution of the dispute between the parties.

- 6.7 Subject to clause 6.6, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this Call-Off Contract in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. The Provider shall not suspend the supply of the Services if any payment is overdue unless it is entitled to terminate this Call-Off Contract under clause 20 for failure to pay undisputed charges.
- 6.8 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Authority following delivery of a valid VAT invoice. The Provider shall at all times comply with the requirements relating to VAT as more particularly detailed in this Call-Off Contract and the Specification. The Provider shall indemnify the Authority against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Authority at any time in respect of the Provider's failure to account for, or to pay, any VAT relating to payments made to the Provider under this Call-Off Contract.
- 6.9 The Provider shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Authority pursuant to this Call-Off Contract. Such records shall be retained for inspection by the Authority for six years from the end of the Contract Year to which the records relate.
- 6.10 The Authority may retain or set off any sums owed to it by the Provider which have fallen due and payable against any sums due to the Provider under this Call-Off Contract.
- 6.11 The Provider shall make any payments due to the Authority 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 Authority to the Provider.
- 6.12 In this clause 6.12, "Sub-Contract" means a contract between two or more suppliers, at any stage of remoteness from the Authority in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Call-Off Contract. Where the Provider enters into a Sub-Contract, the Provider shall include in that Sub-Contract:
- (a) provisions having the same effect as clauses 6.4 and 6.5 above; and
 - (b) a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses 6.4 and 6.5 above.

- 1.1.1.4. For the purposes of this clause 6 (but no other) "Sub-Contractor" means a person under a contract, at any stage of remoteness from the Authority in a subcontracting chain, who has entered into a contract wholly or substantially for the purpose of performing (or contributing to the performance of) the whole of any part of this Call-Off Contract.

1 Due Diligence

- 6.13 The Provider acknowledges and confirms that:
- (a) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Authority all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Call-Off Contract;
 - (b) it has received all information requested by it from the Authority pursuant to paragraph (a) to enable it to determine whether it is able to provide the Services in accordance with the terms of this Call-Off Contract;
 - (c) it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Authority pursuant to paragraph (b);
 - (d) it has raised all relevant due diligence questions with the Authority before the Commencement Date; and

- (e) it has entered into this Call-Off Contract in reliance on its own due diligence.
- 6.14 Save as provided in this Call-Off Contract, no representations, warranties or conditions are given or assumed by the Authority in respect of any information which is provided to the Provider by the Authority and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.
- 6.15 The Provider:
- (a) as at the Commencement Date, warrants and represents that all information contained in the Provider's Tender Response remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Call-Off Contract; and
- (b) shall promptly notify the Authority in writing if it becomes aware during the performance of this Call-Off Contract of any inaccuracies in any information provided to it by the Authority during such due diligence which materially and adversely affects its ability to perform the Services or meet the Service Level Arrangements.
- 6.16 The Provider shall not be entitled to recover any additional costs from the Authority which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Authority by the Provider in accordance with clause 6.15(b) save where such additional costs or adverse effect on performance have been caused by the Provider having been provided with fundamentally misleading information by or on behalf of the Authority and the Provider could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, the Provider shall be entitled to recover such reasonable additional costs from the Authority or shall be relieved from performance of certain obligations as shall be determined by the Change Control Procedure.
- 6.17 Nothing in this clause 1 shall limit or exclude the liability of the Authority for fraud or fraudulent misrepresentation.
- 7. Key Personnel**
- 7.1 Each party shall appoint the persons named as such in the Specification as the individuals who shall be responsible for the matters allocated to such Key Personnel. The Key Personnel shall be those people who are identified by each party as being key to the success of the implementation and/or operation of the Services and who shall be retained on the implementation and/or operation of the Services for such time as a person is required to perform the role which has been allocated to the applicable Key Personnel. The Key Personnel shall have the Authority to act on behalf of their respective party on the matters for which they are expressed to be responsible.
- 7.2 The Provider shall not remove or replace any of the Key Personnel unless:
- (a) requested to do so by the Authority;
- (b) the person is on long-term sick leave;
- (c) the element of the Services in respect of which the individual was engaged has been completed to the Authority's satisfaction;
- (d) the person resigns from their employment with the Provider; or
- (e) the Provider obtains the prior written consent of the Authority.
- 7.3 The Provider shall inform the Authority of the identity and background of any replacements for any of the Key Personnel as soon as a suitable replacement has been identified. The Authority shall be entitled to interview any such person and may object to any such proposed appointment within 30 Working Days of being informed of or meeting any such replacement if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.
- 7.4 Each party shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than 10 Working Days. Any replacement shall be as, or more qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced. A temporary replacement shall

be identified with immediate effect from the Provider or the Authority becoming aware of the role becoming vacant.

7.5 The Authority may require the Provider to remove, or procure the removal of, any of its Key Personnel whom it considers, in its absolute opinion, to be unsatisfactory for any reason which has a material impact on such person's responsibilities or for any reason which impacts on the management or operation of any applicable Authority's Premises.

7.6 If the Provider replaces the Key Personnel as a consequence of this clause 7, the cost of effecting such replacement shall be borne by the Provider.

8. Provider's Personnel Used to Provide the Services

8.1 At all times, the Provider shall ensure that:

- (a) each of the Provider's Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;
- (b) there is an adequate number of Provider's Personnel to provide the Services properly;
- (c) only those people who are authorised by the Provider (under the authorisation procedure to be agreed between the parties) are involved in providing the Services;
- (d) all of the Provider's Personnel comply with all of the Authority's policies including those that apply to persons who are allowed access to the applicable Authority Premises; and
- (e) where the Services are regulated activities enabling the Provider to obtain a Disclosure Barring Service (DBS) certificate, it holds a clear DBS certificate for each of the Provider's Personnel.

8.2 The Authority in its absolute discretion may refuse to grant access to, and remove, any of the Provider's Personnel who do not comply with any such policies, or if they otherwise present a security threat.

8.3 The Provider shall replace any of the Provider's Personnel who the Authority reasonably decides have failed to carry out their duties with all reasonable skill and care. Following the removal of any of the Provider's Personnel for any reason, the Provider shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Services.

8.4 The Provider shall maintain up-to-date personnel records on the Provider's Personnel engaged in the provision of the Services and, on request, provide reasonable information to the Authority on the Provider's Personnel. The Provider shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation.

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

9. Not Used

10. Monitoring

10.1 The Authority may monitor the performance of the Services by the Provider at its discretion.

10.2 The Provider shall co-operate with the Authority in carrying out the monitoring referred to in clause 10.1 at no additional charge to the Authority.

11. Dispute Resolution Procedure

11.1 If a Dispute arises then except as expressly provided in this Call-Off Contract, the parties shall follow the procedure set out in this clause:

- (a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Authorised Representatives of both the Authority and the Provider shall attempt in good faith to resolve the Dispute;

- (b) if the Authorised Representatives of the Authority the Provider are for any reason unable to resolve the Dispute within 14 days of service of the Dispute Notice, the Dispute shall be referred to senior officers of both the Authority and the Provider who shall attempt in good faith to resolve it; and
 - (c) if the senior officers of the Authority and the Provider are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR Solve. The mediation will start not later than 30 days after the date of the ADR notice.
- 11.2 The Provider shall continue to provide the Services in accordance with the terms of this Call-Off Contract until a Dispute has been resolved.
- 11.3 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 37 and 38 which shall apply at all times.
- 11.4 If the Dispute is not resolved within 60 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 60 days, or the mediation terminates before the expiration of the said period of 60 days, the Dispute shall be finally resolved by the courts of England and Wales in accordance with clause 37 and 38 of these General Terms.
- 12. Sub-contracting and Assignment**
- 12.1 The Provider shall not be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Call-Off Contract without the prior written consent of the Authority. The Provider shall not sub-contract the whole or any part of its obligations under this Call-Off Contract nor shall it replace a Sub-Contractor approved under this Call-Off Contract or permit a Sub-Contractor approved under this Call-Off Contract to assign, novate or otherwise dispose of any or all of its rights and obligations under the Sub-Contract, except with the express prior written consent of the Authority.
- 12.2 In the event that the Provider enters into any Sub-Contract in connection with this Call-Off Contract it shall:
- (a) remain responsible to the Authority for the performance of its obligations under the Call-Off Contract notwithstanding the appointment of any Sub-Contractor and be responsible for the acts omissions and neglects of its Sub-Contractors and shall indemnify and keep indemnified the Authority against any loss or claim arising resulting from the failure of the Sub Contractor or an employee of the Sub Contractor in the performance of the duties of the Sub Contractor to provide the Services on behalf of the Provider under this Call-Off Contract;
 - (b) impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to this Call-Off Contract and shall procure that the Sub-Contractor complies with such terms and, if necessary, imposes obligations on any further sub-contractors in its sub-contract pursuant to this Call-Off Contract; and
 - (c) provide a copy, at no charge to the Authority, of any such Sub-Contract on receipt of a request for such by the Authority's 'Authorised Representative'.
- 12.3 The Authority shall be entitled to novate the Call-Off Contract to any other body which substantially performs any of the functions that previously had been performed by the Authority.
- 12.4 The Authority may, by notice in writing to the Contractor, require the Contractor immediately (or as specified in the notice) to cease to engage a specified Sub-Contractor for the performance of any of its obligations under this Call-Off Contract where any of the circumstances specified in Regulation 57(1) or (8) of the Public Contracts Regulations 2015 applies to the Sub-Contractor.
- 13. Limitation of Liability**

- 13.1 Subject to clause 13.3, neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with the Call-Off Contract which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.
- 13.2 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Call-Off Contract.
- 13.3 Notwithstanding any other provision of this Call-Off Contract neither party limits or excludes its liability for:
- (a) fraud or fraudulent misrepresentation;
 - (b) death or personal injury caused by its negligence;
 - (c) breach of any obligation as to title implied by statute; or
 - (d) any other act or omission, liability for which may not be limited under any applicable law.

14. Insurance

- 14.1 The policy limits set out below shall apply unless expressly amended in the Key Provisions.
- 14.2 The Provider shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing as a minimum the following levels of cover:
- (a) public liability insurance with a limit of indemnity of not less than £5,000,000 in relation to any one claim or series of claims; and
 - (b) employer's liability insurance with a limit of indemnity of not less than £10,000,000 in relation to any one claim or series of claims,
- (the **Required Insurances**). The cover shall be in respect of all risks which may be incurred by the Provider, arising out of the Provider's performance of the Call-Off Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Provider.
- 14.3 The Provider shall, prior to the Commencement Date and on each subsequent anniversary of the Commencement Date, provide the Authority with copies of all insurance policies referred to in this clause or a broker's verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies. This evidence of insurance will be added annually to this Call-Off Contract in Schedule 14C.
- 14.4 If, for whatever reason, the Provider fails to give effect to and maintain the Required Insurances, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider including by way of set off against payments that may be made by the Authority to the Provider for the provision of the Services.
- 14.5 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under the Call-Off Contract.
- 14.6 The Provider shall hold and maintain the Required Insurances for a minimum of six years following the expiration or earlier termination of the Call-Off Contract.

15. Freedom of Information and Transparency Obligations

- 15.1 The Provider acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs and transparency obligations under the Public Contracts Regulations 2015, and shall assist and co-operate with the Authority (at the Provider's expense) to enable the Authority to comply with its obligations under the FOIA and the EIRs and its transparency obligations under the Public Contracts Regulations 2015.
- 15.2 The Provider shall and shall procure that its Sub-Contractors shall:

- (a) transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within 5 Working Days of receiving a Request for Information;
 - (b) provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and
 - (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIRs.
- 15.3 The Authority shall be responsible for determining at its absolute discretion whether the Confidential Information and/or any other Information:
- (a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs; and/or
 - (b) is to be disclosed in response to a Request for Information.
- 15.4 In no event shall the Provider respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 15.5 The Provider acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Provider. The Authority shall take reasonable steps to notify the Provider of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Call-Off Contract) the Authority shall be responsible for determining in its absolute discretion whether any Confidential Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs. The Provider shall ensure that all Information produced in the course of the Call-Off Contract or relating to the Call-Off Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.
- 15.6 The Provider acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with clause 8.5.
- 15.7 The Provider acknowledges that the United Kingdom Government's transparency agenda, including the transparency obligations under the Public Contracts Regulations 2015, requires that contracts, such as the Call-Off Contract, and any tender document, such as the invitation to tender and certain other information, are published on a designated, publicly searchable website and the Provider consents to such publication.
- 15.8 The Provider acknowledges that, except for any information which is exempt from disclosure in accordance with the provisions of FOIA, the content of the Call-Off Contract is not Confidential Information. The Authority shall be responsible for determining in their absolute discretion whether any of the content of the Call-Off Contract is exempt from disclosure in accordance with the provisions of FOIA.
- 15.9 Notwithstanding any other term of the Call-Off Contract, the Provider hereby consents to the Authority publishing the Call-Off Contract in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of FOIA redacted) including from time to time agreed changes to the Call-Off Contract, to the general public.
- 15.10 The Provider shall assist and co-operate with the Authority to enable the Authority to publish this Call-Off Contract.
- 16. Data Protection**
- 16.1 The Provider shall (and shall procure that any of its Provider's Personnel involved in the provision of the Call-Off Contract shall) comply with any notification requirements under Data Protection Legislation and both Parties shall duly observe all their obligations under Data Protection Legislation, which arise in connection with the Call-Off Contract.
- 16.2 Notwithstanding the general obligation in clause 7.1, where the Provider is processing Personal Data as a Data Processor for the Authority, the Provider shall ensure that it has in place

appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under Data Protection Legislation; and

- (a) provide the Authority with such information as the Authority may reasonably require to satisfy itself that the Provider is complying with its obligations under Data Protection Legislation;
- (b) within 24 hours of the Provider becoming aware of the breach occurring, notify the Authority of any breach and of the security measures required to be put in place pursuant to this clause 7.2;
- (c) co-operating with the Authority and/or any relevant regulatory body in carrying out any investigation by providing information requested by the Authority and/or relevant regulatory body within the timescales required;
- (d) allow the Authority's and/or the regulatory body's representatives access to Provider premises, systems and data for the purposes of any investigation, inspection or audit; and
- (e) ensure it does not knowingly or negligently do or omit to do anything which places the Authority in breach of the Authority's obligations under Data Protection Legislation.

16.3 The Provider shall not engage another processor without prior written authorisation from the Authority. The Provider shall inform the Authority of any intended changes concerning the addition or replacement of other processors giving the Authority the opportunity to object. All additional or replacement processors are required to sign the Authority's Data Processing Agreement.

16.4 The Provider shall indemnify the Authority against all liabilities, costs, expenses, damages and losses (including but not limited to any direct, indirect or consequential losses, loss of profits, loss of reputation and all interest, penalties and legal costs (calculated on a full indemnity basis) and all other reasonable professional costs and expenses) suffered or incurred by, or awarded against the Authority arising from any breach of the Provider's obligations in this clause 16 except and to the extent that such liabilities have resulted directly from the Authority's instructions.

17. Confidentiality

17.1 The provisions of this clause shall not apply to any Confidential Information that:

- (a) is required for disclosure by any applicable law, provided that clause 8.5 shall apply to any disclosures required under the FOIA or the EIRs;
- (b) is or becomes generally available to the public (other than as a result of its disclosure by the receiving party or its Authorised Representatives in breach of this clause);
- (c) was available to the receiving party on a non-confidential basis before disclosure by the disclosing party;
- (d) is disclosed by the Authority to any other department, office or agency of the Government;
- (e) where in the reasonable opinion of the Authority it is necessary to disclose information or required to disclose information to any court tribunal arm of Government or Local Government;
- (f) may assist in the enabling of a determination to be made under clause 11;
- (g) was, is or becomes available to the receiving party on a non-confidential basis from a person who, to the receiving party's knowledge, is not bound by a confidentiality agreement with the disclosing party or otherwise prohibited from disclosing the information to the receiving party; or
- (h) the parties agree in writing is not confidential or may be disclosed.

17.2 Each party shall keep the other party's Confidential Information confidential and shall not:

- (a) use such Confidential Information except for the purpose of exercising or performing its rights and obligations under this Call-Off Contract (**Permitted Purpose**); or
 - (b) disclose such Confidential Information in whole or in part to any third party, except as expressly permitted by this clause.
- 17.3 A party may disclose the other party's Confidential Information to those of its Representatives who need to know such Confidential Information for the Permitted Purpose, provided that:
 - (a) it informs such Representatives of the confidential nature of the Confidential Information before disclosure; and
 - (b) it procures that its Representatives shall, in relation to any Confidential Information disclosed to them, comply with the obligations set out in this clause as if they were a party to this Call-Off Contract,

and at all times, it is liable for the failure of any Representatives to comply with the obligations set out in this clause.
- 17.4 A party may disclose Confidential Information to the extent such Confidential Information is required to be disclosed by law, by any governmental or other regulatory authority or by a court or other authority of competent jurisdiction provided that, to the extent it is legally permitted to do so, it gives the other party as much notice of such disclosure as possible.
- 17.5 A party may, provided that it has reasonable grounds to believe that the other party is involved in activity that may constitute a criminal offence under the Bribery Act 2010, disclose Confidential Information to the Serious Fraud Office without first informing the other party of such disclosure.
- 17.6 Each party reserves all rights in its Confidential Information. No rights or obligations in respect of a party's Confidential Information other than those expressly stated in this Call-Off Contract are granted to the other party, or to be implied from this Call-Off Contract.
- 17.7 On termination of this Call-Off Contract, the Provider shall:
 - (a) return to the Authority all documents and materials (and any copies) containing, reflecting, incorporating or based on the Authority's Confidential Information;
 - (b) erase all the Authority's Confidential Information from computer and communications systems and devices used by it, including such systems and data storage services provided by third parties (to the extent technically practicable); and
 - (c) certify in writing to the Authority that it has complied with the requirements of this clause, provided that a recipient party may retain documents and materials containing, reflecting, incorporating or based on the Authority's Confidential Information to the extent required by law or any applicable governmental or regulatory authority.
- 17.8 Except as expressly stated in this Call-Off Contract, no party makes any express or implied warranty or representation concerning its Confidential Information.
- 18. Audit**
- 18.1 During the Term and for a period of 7 years after the Termination Date, the Authority may conduct or be subject to an audit for the following purposes;
 - (a) to verify the accuracy of Charges (and proposed or actual variations to them in accordance with this Call-Off Contract) and/or the costs of all Providers (including Sub-Contractors) of the Services;
 - (b) to review the integrity, confidentiality and security of any data relating to the Authority or any service users;
 - (c) to review the Provider's compliance with Data Protection Legislation and the FOIA in accordance with clause 16 and clause 15 and any other legislation applicable to the Services;
 - (d) to review any records created during the provision of the Services;

- (e) to review any books of account kept by the Provider in connection with the provision of the Services;
 - (f) to carry out the audit and certification of the Authority's accounts;
 - (g) to carry out an examination pursuant of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - (h) to verify the accuracy and completeness of the Management Reports (if applicable) and any other management information delivered or required by this Call-Off Contract.
- 18.2 The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Provider or delay the provision of the Services.
- 18.3 Subject to the Authority's obligations of confidentiality, the Provider shall on demand provide the Authority and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- (a) all information requested by the above persons within the permitted scope of the audit;
 - (b) reasonable access to any sites controlled by the Provider and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services; and
 - (c) access to the Provider's Personnel.
- 18.4 The Authority shall endeavour to (but is not obliged to) provide at least 15 days' notice of its or, where possible, a regulatory body's, intention to conduct an audit.
- 18.5 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit identifies a material failure to perform its obligations under this Call-Off Contract in any material manner by the Provider in which case the Provider shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.
- 18.6 If an audit identifies that:
- (a) the Provider has failed to perform its obligations under this Call-Off Contract in any material manner; the parties shall agree and implement a remedial plan. If the Provider's failure relates to a failure to provide any information to the Authority about the Charges, proposed Charges or the Provider's costs, then the remedial plan shall include a requirement for the provision of all such information;
 - (b) the Authority has overpaid any Charges, the Provider shall pay to the Authority the amount overpaid within 20 Working Days. The Authority may deduct the relevant amount from the Charges if the Provider fails to make this payment; and
 - (c) the Authority has underpaid any Charges, the Authority shall pay to the Provider the amount of the under-payment less the cost of audit incurred by the Authority if this was due to a default by the Provider in relation to invoicing within 20 Working Days.
- 19. Intellectual Property**
- 19.1 Unless expressly stated otherwise in the Specification or in a separate prior written agreement signed by both parties to the contrary, all Intellectual Property Rights created by the Provider, Provider Personnel, a Sub-Contractor or any other employee, agent or subcontractor of the Provider:
- (a) in the course of performing the Services; or
 - (b) exclusively for the purpose of performing the Services,
- shall vest in the Authority on creation.
- 19.2 The Provider shall indemnify the Authority against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis and all other reasonable professional costs and expenses), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged

infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Authority's acts or omissions.

20. Authority Termination for Breach

20.1 The Authority may terminate this Call-Off Contract with immediate effect by the service of written notice on the Provider in the following circumstances:

- (a) if the Provider is in breach of any material obligation under this Call-Off Contract provided that if the breach is capable of remedy or the Authority has served the Provider with a Default Notice, the Authority may only terminate this Call-Off Contract under this clause 20.1 if the Provider has failed to remedy such breach within 28 days of receipt of notice from the Authority (a **Remediation Notice**) to do so;
- (b) if a Service Failure Default has occurred;
- (c) if a Catastrophic Failure has occurred;
- (d) if an Insolvency Event has occurred;
- (e) if the Provider ceases or threatens to cease to carry on business in the United Kingdom;
- (f) if there is a change of control (as defined in section 1124 of the Corporation Tax Act 2010) of the Provider to which the Authority reasonably objects; or
- (g) in accordance with clause 25.7.

20.2 The Authority may terminate this Call-Off Contract by giving not less than 30 days written notice on the Provider in any of the following circumstances:

- (a) the Call-Off Contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) of the Public Contracts Regulations 2015;
- (b) at the Commencement Date one of the situations referred to in regulation 57(1) of the Public Contracts Regulations 2015 (including as a result of the application of regulation 57(2)) applied:
- (c) to the Provider such that it should have been excluded from the procurement procedure; or
- (d) to a Sub-Contractor on which the Provider relied in its tender to the Authority for this Call-Off Contract and the Provider does not cease to engage that Sub-Contractor within 30 days of a notice from the Authority requiring the Provider to cease to engage that Sub-Contractor; or
- (e) the Call-Off Contract should not have been awarded to the Provider in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the EU in a procedure pursuant to Article 258 of TFEU.

20.3 If this Call-Off Contract is terminated by the Authority for cause in accordance with clause 20.1 or 20.2 such termination shall be at no loss or cost to the Authority.

21. Provider Termination for Breach

21.1 The Provider may terminate this Call-Off Contract at any time by giving not less than 12 months' written notice to the Authority if the Authority is in breach of any material obligation under this Call-Off Contract provided that if the breach is capable of remedy or the Provider has served the Authority with a Default Notice, the Provider may only terminate this Call-Off Contract under this clause if the Authority has failed to remedy such breach within 28 days of receipt of notice from the Provider (a **Remediation Notice**) to do so.

22. Authority Termination on Notice

22.1 The Authority may terminate this Call-Off Contract at any time by giving not less than 30 days written notice to the Provider.

22.2 Any individual member of the Authority in respect of an applicable Authority Premises may terminate this Call-Off Contract in so far as it relates to an applicable named Authority Premises at any time by the service of 30 days written notice on the Provider.

23. Provider Termination on Notice

23.1 The Provider may terminate this Call-Off Contract at any time by giving not less than 12 months' written notice to the Authority.

24. Force Majeure

24.1 Subject to the remaining provisions of this clause 24, neither party to this Call-Off Contract shall be liable to the other for any delay or non-performance of its obligations under this Call-Off Contract to the extent that such non-performance is due to a Force Majeure Event.

24.2 In the event that either party is delayed or prevented from performing its obligations under this Call-Off Contract by a Force Majeure Event, such party shall:

- (a) give notice in writing of such delay or prevention to the other party as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause thereof and its estimated duration;
- (b) use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under this Call-Off Contract; and
- (c) resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.

24.3 A party cannot claim relief if the Force Majeure Event is attributable to that party's wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.

24.4 The Provider cannot claim relief if the Force Majeure Event is one where a reasonable Provider should have foreseen and provided for the cause in question.

24.5 As soon as practicable following the affected party's notification, the parties shall consult with each other in good faith and use all reasonable endeavours to agree appropriate terms to mitigate the effects of the Force Majeure Event and to facilitate the continued performance of this Call-Off Contract. Where the Provider is the affected party, it shall take and/or procure the taking of all steps to overcome or minimise the consequences of the Force Majeure Event in accordance with Best Industry Practice.

24.6 The affected party shall notify the other party as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under this Call-Off Contract. Following such notification, this Call-Off Contract shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise by the parties.

24.7 The Authority may, during the continuance of any Force Majeure Event, terminate this Call-Off Contract by written notice to the Provider if a Force Majeure Event occurs that affects all or a substantial part of the Services and which continues for more than 60 Working Days.

25. Prevention of Bribery

1.1.1.5. The Provider:

- (a) shall not, and shall procure that any Provider Party and all Provider Personnel shall not, in connection with this Call-Off Contract commit a Prohibited Act;
- (b) shall not do or suffer anything to be done which would cause the Authority or any of the Authority's employees, consultants, contractors, sub-contractors or agents to contravene any of the Bribery Act or otherwise incur any liability in relation to the Bribery Act;
- (c) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Call-Off Contract, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Call-Off Contract.

- 25.2 The Provider represents and warrants that neither it, nor to the best of its knowledge any Provider Party or Provider Personnel, have at any time prior to the Commencement Date:
- (a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
 - (b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.
- 25.3 The Provider shall:
- 1.1.1.5.1. if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
 - (a) within 30 Working Days of the Commencement Date, and annually thereafter, certify to the Authority in writing (such certification to be signed by an officer of the Provider) compliance with this clause 25 by the Provider and all persons associated with it or other persons who are supplying goods or services in connection with this Call-Off Contract. The Provider shall provide such supporting evidence of compliance as the Authority may reasonably request.
- 25.4 The Provider shall establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, an anti-bribery policy (which shall be disclosed to the Authority) to prevent any Provider Party or Provider Personnel from committing a Prohibited Act and that are compliant with the Bribery Act and shall enforce it where appropriate.
- 25.5 If any breach of clause 1.1.1.5 or clause 25.2 is suspected or known, the Provider must notify the Authority immediately.
- 25.6 If the Provider notifies the Authority that it suspects or knows that there may be a breach of clause 1.1.1.5 or clause 25.2, the Provider must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documentation.
- 25.7 The Authority may terminate this Call-Off Contract by written notice with immediate effect if the Provider, Provider Party or Provider Personnel (in all cases whether or not acting with the Provider's knowledge) breaches clause 1.1.1.5 or clause 25.2. The expression "not acting independently of" (when used in relation to the Provider or a Sub-Contractor) means and shall be construed as acting:
- (a) with the Authority; or,
 - (b) with the actual knowledge;
of any one or more of the directors of the Provider or the Sub-Contractor (as the case may be); or
 - (c) in circumstances where any one or more of the directors of the Provider ought reasonably to have had knowledge.
- 25.8 Any notice of termination under clause 25.7 must specify:
- (a) the nature of the Prohibited Act;
 - (b) the identity of the party whom the Authority believes has committed the Prohibited Act; and
 - (c) the date on which this Call-Off Contract will terminate.
- 25.9 Despite clause 11, any dispute relating to:
- (a) the interpretation of clause 25; or
 - (b) the amount or value of any gift, consideration or commission,

shall be determined by the Authority and its decision shall be final and conclusive.

- 25.10 Any termination under clause 25.7 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

26. Non-solicitation

Neither party shall (except with the prior written consent of the other) during the term of this Call-Off Contract, and for a period of one year thereafter, solicit the services of any senior staff of the other party who have been engaged in the provision of the Services or the management of this Call-Off Contract or any significant part thereof either as principal, agent, employee, independent contractor or in any other form of employment or engagement other than by means of an open national advertising campaign and not specifically targeted at such staff of the other party.

27. Waiver

No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach. In particular, but without limitation to the generality of the foregoing, any prior acceptance or approval communicated by the Authority to the Provider in respect of the Services or any omission on the part of the Authority to communicate such prior acceptance or approval shall not relieve the Provider of its obligations to deliver the Services in accordance with the provisions of this Call-Off Contract.

28. Accumulation of Remedies

Subject to the specific limitations set out in this Call-Off Contract, no remedy conferred by any provision of this Call-Off Contract is intended to be exclusive of any other remedy except as expressly provided for in this Call-Off Contract and each and every remedy shall be cumulative and shall be in addition to every other remedy given there under or existing at law or in equity by statute or otherwise.

29. Severability

- 29.1 If any provision or part-provision of this Call-Off Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Call-Off Contract.
- 29.2 If one party gives notice to the other of the possibility that any provision or part-provision of this Call-Off Contract is invalid, illegal or unenforceable, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.

30. Partnership or Agency

- 30.1 Nothing in this Call-Off Contract shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of this Call-Off Contract.
- 30.2 Each party confirms that it is acting on its own behalf and not for the benefit of any other person.

31. Third Party Rights

No one other than a party to this Call-Off Contract, their successors and permitted assignees, shall have any right to enforce any of its terms.

32. Publicity

- 32.1 The Provider shall not:

- (a) make any press announcements or publicise this Call-Off Contract or its contents in any way; or
 - (b) use the Authority's name or brand in any promotion or marketing or announcement of orders,
- without the prior written consent of the Authority.

33. Notices

33.1 Notices shall be in writing, and shall be sent to the other party marked for the attention of the person at the address set out for such party in this Call-Off Contract. Notices may be sent by:

- (a) first-class mail,
- (b) e-mail (provided that the e-mail is sent to the e-mail address of the Authorised Representative of the receiving party as set out at clause 4 of the Key Provisions, or as notified by one party to the other in writing from time to time and are confirmed within 24 hours by first class mailed confirmation of a copy) however notice of a parties' intention to terminate this Call-Off Contract or informing the other party of a breach of this Call-Off Contract shall not be accepted in email form and may only be sent by first class mail or facsimile transmission; or
- (c) facsimile transmission (provided that facsimile transmissions are confirmed within 24 hours by first-class mailed confirmation of a copy).

33.2 This table sets out:

1.1.1.5.2. delivery methods for sending a notice to a party under this agreement; and

- (a) for each delivery method, the corresponding delivery date and time when delivery of the notice is deemed to have taken place provided that all other requirements in this clause have been satisfied and subject to the provisions in clause 33.3:

Delivery method	Deemed delivery date and time
Delivery by hand.	On signature of a delivery receipt or at the time the notice is left at the address.
Pre-paid first class recorded delivery post or other next working day delivery service providing proof of postage.	9.00 am on the third Working Day after posting or at the time recorded by the delivery service.
Pre-paid airmail providing proof of postage.	9.00 am on the fifth Working Day after posting or at the time recorded by the delivery service.
Facsimile transmission/E-mail.	At the time of transmission provided that they are confirmed as set out above.

33.3 For the purpose of clause 33.2 and calculating deemed receipt:

- (a) all references to time are to local time in the place of deemed receipt; and
- (b) if deemed receipt would occur in the place of deemed receipt on a Saturday or Sunday, outside the hours of 9.00 am to 5.00 pm, or a public holiday when banks are not open for business, deemed receipt is deemed to take place at 9.00 am on the day when business next starts in the place of receipt.

34. Changes to the Call-Off Contract

No Change to this Call-Off Contract shall be effective unless it is processed in accordance with the Change of Control Procedure set out in Schedule 14C.

35. Entire Agreement

This Call-Off Contract, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

36. Counterparts

This Call-Off Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Call-Off Contract, but all the counterparts shall together constitute the same Call-Off Contract. No counterpart shall be effective until each party has executed at least one counterpart.

37. Governing Law

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

38. Jurisdiction

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Call-Off Contract of its subject matter or formation (including non-contractual disputes).

This Call-Off Contract has been entered into on the date stated at the beginning of it.

Schedule 14C Change Control Procedure

1. Definitions

- 1.1 The definitions in this paragraph apply in this Schedule 14C.
- 1.2 Change **Control Note:** the written record of a Change agreed or to be agreed by the parties pursuant to the Change Control Procedure.

2. Permitted Changes

- 2.1 Changes to the Call-Off Contract shall be made only where:
- (a) Such a Change is permitted by the Public Contracts Regulations 2015, Regulation 72(1)(b) to (f); or
 - (b) permitted under paragraph 1.4 below.
- 2.2 A Change is permitted where each of requirements (a) to (d) below is satisfied:
- (a) the Change is of the following scope and nature:
 - (i) the Service delivery model;
 - (ii) key performance indicators and/or service outcomes;
 - (iii) service is not being fully utilised;
 - (iv) an increase or reduction in the number of block contracted units required;
 - (v) the inclusion of solo units; and
 - (vi) the inclusion of training flats.
 - (b) the price of the Change is calculated as follows:
 - (i) in the case of any additional services set under 1.4(a) above will be calculated in accordance with the prices set out in **Error! Reference source not found.** (Payment Schedule) taking into account any agreed annual uplifts in place.
 - (ii) demonstrated change in cost of delivery, e.g. where the national living or minimum wage has been increased;
 - (iii) where the Authority has acquired additional funding to allow for either solo units or training flats, the
 - (c) the circumstances necessitating the Change are:
 - (i) in the case of 1.4(a)(i) the accommodation no longer meets the needs of Torbay's Young People;
 - (ii) in the case of 1.4(a)(i) to 1.4(a)(iii) new ways of working have been identified;
 - (iii) in the case of 1.4(a)(i) to 1.4(a)(iii) there are changes in statutory guidance, legislation or Authority policy;
 - (iv) in the case of 1.4(a)(iv) the Authority does not require the full capacity of the accommodation;
 - (v) in the case of 1.4(a)(iv) the Authority requires additional capacity within the accommodation provision to meet increased demand and need;
 - (vi) in the case of 1.4(a)(v) additional funding has been identified that allows the Authority to contract solo units; or
 - (vii) in the case of 1.4(a)(vi) additional funding has been identified that allows the Authority to contract training flats.
- 1.1.1.5.3. the Change does not alter the overall nature of the Call-Off Contract.

3. General Principles

- 3.1 Where the Authority or the Provider sees a need to change this Call-Off Contract, the Authority may at any time request and the Provider may at any time recommend, such Change only in accordance with the Change Control Procedure set out in paragraph 4 of this Schedule 14C.
- 3.2 Until such time as a Change is made in accordance with the Change Control Procedure, the Authority and the Provider shall continue to perform this Call-Off Contract in compliance with its terms before such Change.
- 3.3 Any discussions which may take place between the Authority and the Provider in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 3.4 Any work undertaken by the Provider and the Provider's Personnel which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Schedule 14C, shall be undertaken entirely at the expense and liability of the Provider.

4. Procedure

- 4.1 Discussion between the Authority and the Provider concerning a Change shall result in any one of the following:
 - (a) no further action being taken; or
 - (b) a request to change this Call-Off Contract by the Authority; or
 - (c) a recommendation to change this Call-Off Contract by the Provider.
- 4.2 Where a written request for an amendment is received from the Authority, the Provider shall, unless otherwise agreed, submit two copies of a Change Control Note signed by the Provider to the Authority within three weeks of the date of the request.
- 4.3 A recommendation to amend this Call-Off Contract by the Provider shall be submitted directly to the Authority in the form of two copies of a Change Control Note signed by the Provider at the time of such recommendation. The Authority shall give its response to the Change Control Note within three weeks.
- 4.4 Each Change Control Note shall contain:
 - (a) the title of the Change;
 - (b) the originator and date of the request or recommendation for the Change;
 - (c) the reason for the Change;
 - (d) full details of the Change, including any specifications;
 - (e) the price, if any, of the Change;
 - (f) a timetable for implementation, together with any proposals for acceptance of the Change;
 - (g) a schedule of payments if appropriate;
 - (h) details of the likely impact, if any, of the Change on other aspects of this Call-Off Contract including:
 - (i) the timetable for the provision of the Change;
 - (ii) the personnel to be provided;
 - (iii) the Charges;
 - (iv) the Documentation to be provided;
 - (v) the training to be provided;
 - (vi) working arrangements;

- (vii) other contractual issues;
 - (i) the date of expiry of validity of the Change Control Note; and
 - (j) provision for signature by the Authority and the Provider.
- 4.5 For each Change Control Note submitted by the Provider the Authority shall, within the period of the validity of the Change Control Note:
 - (a) allocate a sequential number to the Change Control Note; and
 - (b) evaluate the Change Control Note and, as appropriate:
 - (i) request further information;
 - (ii) arrange for two copies of the Change Control Note to be signed by or on behalf of the Authority and return one of the copies to the Provider; or
 - (iii) notify the Provider of the rejection of the Change Control Note.
- 4.6 A Change Control Note signed by the Authority and by the Provider shall constitute an amendment to this Call-Off Contract.

Schedule 14D Form of Default Notice**DEFAULT NOTICE**

This is a Default Notice under the contract referred to below.

If the defaults referred to below are capable of remedy, it is important that the parties remedy those defaults. Failure to remedy the defaults may give rise to a right to terminate the Call-Off Contract.

Name of the Authority	
Name of the Provider	
Call-Off Contract Description	
Call-Off Contract Commencement Date	
Details of default	
Any additional information	
Details of agreed actions to remedy the default and timescales for completion	
Details of consequences of failing to meet timescales for completion of remedial actions	

Schedule 14E Call-Off Contract Performance Monitoring and Evaluation Provisions

- 2 This Schedule sets out a common framework for evaluating the Provider's performance against the Service Specifications. The Provider will co-operate with supplying information as requested by the Authority in line with this monitoring schedule in accordance with Terms and Conditions.
- 3 The Provider shall employ a quality assurance system which ensures that any Services called-off from this Agreement are provided to the agreed levels and standards. All of the Provider's procedures, policies and practices shall comply with current Legislation and respond in a timely fashion to changes in Legislation with which the Provider must comply in delivering these Services.
- 4 All Individual Placement Contract monitoring and Quality Assurance activity carried out by the Authority will be undertaken by suitably skilled and experienced officers.
- 5 The Authority will monitor and review the Provider's performance in respect of the Service outcomes set out in the Specification and the Individual Outcomes and progress made by the Young Person in accordance with legislative and statutory guidelines.
- 6 This Framework will be subject to review and amendment to take into account any changes required as a result of the Ofsted review into unregulated 16 plus provision or any other legislative or regulatory changes that may be put in place.

Annual Quality Assurance Audit

- 7 An annual quality assurance audit will be undertaken, comprising a desk top review and site visit. The areas of focus will include the following key areas:
 - (a) accommodation and maintenance standards and compliance;
 - (b) health and safety;
 - (c) review of relevant policies and procedures
 - (d) safeguarding and incidents;
 - (e) record keeping and data security;
 - (f) interviews with key staff and Young People;
 - (g) feedback from key stakeholders;
 - (h) Provider self-assessment and development plan.

Priority focus areas will take into account outcomes from quarterly reviews and/or individual placement reviews. Additional site visits may also be undertaken as required to identify and/or address any identified performance or compliance concerns.