DYNAMIC FRAMEWORK

SCHEDULE 2.2

1. Performance Levels

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| **VERSION** | **DATE** | **COMMENT** |
| 1.0 | 10 June 2020 | Initial Release      |
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SCHEDULE 2.2

1. Performance Levels
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2. PERFORMANCE INDICATORS
3. Performance indicators
	1. The Framework Performance Indicators set out in Appendix 1 represent a series of potential performance indictors that may apply to the Services.
	2. In respect of each Call-Off Contract, the Customer shall set out in Schedule 2.2 (Call-Off Performance Levels) the actual Call-Off Contract Performance Indicators (selected from the Framework Performance Indicators) that the Supplier is required to comply with in respect of the Services to be provided under such Call-Off Contract.
	3. The Call-Off Contract Performance Indicators shall be used to measure the performance of the Services by the Supplier under a Call-Off Contract.
	4. The Call-Off Contract shall specify for each Call-Off Contract Performance Indicator:
		* 1. the Target Performance Level;
			2. the definition and formula for calculating performance;
			3. frequency of Measurement Period;
			4. Trigger Level; and
			5. any Retained Amount for each Call-Off Contract Performance Indicator.
	5. The Supplier shall monitor its performance against each Call-Off Contract Performance Indicatorand shall send the Customer the Performance Monitoring Reports in accordance with this Schedule 2.2 (Performance Levels) and regular reports in accordance with Schedule 7.5 (Reports, Records and Audit Rights) and the remaining requirements of the Framework Agreement.
	6. Following the Call-Off Commencement Date, the Call-Off Contract Performance Indicators shall be measured and reported in accordance with this Schedule 2.2 (Performance Levels). Without prejudice to any other rights and remedies the Customer may have under a Call-Off Contract, the Parties agree that for the period that is six (6) months after a Call-Off Commencement Date (or such other period as may be set out in Schedule 2.2 (Call-Off Performance Levels)):
		* 1. the Retained Amount shall not be applied; and
			2. the Customer shall not seek to exercise any of its rights under Clause 31 (Improvement Plan Process); Clause 32 (Rectification Plan Process), Clause 35 (Step-In Rights) or Clause 38 (Termination rights) to the extent such rights arise as a result of a Performance Failure relating to a Call-Off Contract Performance Indicator.
4. improvement plan

If the level of performance of the Supplier during a Measurement Period is below the Trigger Level, then this shall constitute an Improvement Plan Trigger in accordance with the provisions of Clause 31 of the Framework Agreement.

1. retained amount for failure to achieve Target Performance Level
	1. If the level of performance of the Supplier during a Measurement Period meets or exceeds the Target Performance Level in respect of a Call-Off Contract Performance Indicator, no Retained Amount shall accrue in respect of that Call-Off Contract Performance Indicator. Both the Supplier's actual performance level % and the % Retained Amount shall be rounded to two (2) decimal places for the purposes of calculation.
	2. If the level of performance of the Supplier during a Measurement Period is below the Target Performance Level in respect of any Call-Off Contract Performance Indicator, the Retained Amount shall accrue in respect of each measure as set out in the remaining provisions of this Paragraph 3.
	3. The Customer shall use the Quarterly Performance Reports provided pursuant to Paragraph 2 of Part 2 of this Schedule 2.2 (Performance Levels), among other things, to verify the calculation and accuracy of the Retained Amount (if any) applicable to each Measurement Period.
	4. The Retained Amount shall be calculated for each Call-Off Contract Performance Indicator for each Measurement Period as the Period Charges x Call-Off Contract Performance Indicator Retained Percentage.
	5. The Customer shall notify the Supplier at the end of each Measurement Period of the Retained Amount accrued against each Call-Off Contract Performance Indicator for that Measurement Period.
	6. The Supplier's aggregate liability in respect of all Retained Amounts across a Call-off Contract Year for all Call-Off Contract Performance Indicators shall in no event exceed the Maximum Retained Amount.
	7. At the end of each Call-Off Contract Year, the Parties shall review the Charges for such Call-Off Contract Year against the figures used for each Measurement Period to calculate the Period Charges to identify any adjustments to the Retained Amount calculated and notified by the Customer in accordance with Paragraph 3.5 or due to the application of the Maximum Retained Amount. The Authority shall notify the Supplier of any adjustments required.
	8. Payment of any Retained Amount shall be made by way of deductions calculated on a Quarterly basis using figures available within the Quarterly Performance Report (prepared in accordance with Paragraph 2.1.3 of Part 2). Such deductions shall be made from any monies owing to the Supplier by the Customer in accordance with the provisions of Schedule 7.1 (Charges and Invoicing). At the end of each Call-Off Contract Year and following the exercise to reconcile actual Charges undertaken in accordance with the provisions of Paragraph 3.7 above, either a balancing deduction shall be made or a credit shall be made by the Customer to the Supplier and shall be set-off against future invoices or invoiced in accordance with Schedule 7.1 (Charges and Invoicing).
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2. PERFORMANCE MONITORING
3. Performance data
	1. On an ongoing basis throughout a Call-Off Term, the Supplier shall keep the Customer Approved System updated on a timely and accurate basis with all data required by the Customer including such data which the Customer requires to calculate the Call-Off Contract Performance Indicators for each Service Period in each Call-Off Contract Year (the "**Performance Data**").
	2. In addition to the Performance Data, the Supplier shall provide and make available to the Customer on request appropriate documents and records (including staff records, timesheets, training programmes, staff training records, goods received documentation, supplier accreditation records, complaints received, service-user records, sub-contractor records, internal communications etc.) in relation to the Services being delivered. In addition to any audit rights the Customer may have, the records and documents of the Supplier shall be available for inspection by the Customer and/or its nominee at any time and the Customer and/or its nominee may make copies of any such records and documents.
	3. In addition to the requirement in Paragraph 1.2 to maintain appropriate documents and records and provide access to these for the Customer, the Supplier shall provide to the Customer such supporting documentation as the Customer may reasonably require in order to verify the level of the performance of the Supplier and the calculations of the Retained Amount for any specified period.
4. Performance reporting
	1. The Customer shall, in respect of each Measurement Period:
		1. using the Performance Data, calculate the Supplier's actual performance for that Measurement Period against each of the Call-Off Contract Performance Indicators;
		2. calculate any Retained Amounts applicable for that Measurement Period in accordance with Paragraph 3 of Part 1 of this Schedule 2.2 (Performance Levels); and
		3. on a quarterly basis provide to the Supplier a report setting out the data calculated pursuant to Paragraph 2.1 for any Measurement Periods in that quarter ("**Quarterly Performance Report**").
5. verification of Performance data
	1. The Customer shall, from time to time, validate the Performance Data supplied by the Supplier in accordance with Paragraph 1.1 in addition to any rights it may have under Schedule 7.5 (Reports, Records and Audit Rights).
	2. If the Customer discovers or suspects (in its sole opinion) that there may be errors in any Performance Data supplied by the Supplier in accordance with Paragraph 1.1 of Part 2 of this Schedule 2.2 (Performance Levels) it may, in addition to its rights under Schedule 7.5 (Reports, Records and Audit Rights):
		1. audit a sample (the size and/or composition of which shall, for the avoidance of doubt, be determined and/or vary at the sole discretion of the Customer in line with the National Audit Office guidance on sampling methodology) (the "**Performance Sample**") of that data in respect of a Payment Audit Period;
		2. calculate the Supplier's actual performance against each of the Call-Off Contract Performance Indicators in respect of the Performance Sample for that Payment Audit Period using the data obtained by the audit performed pursuant to Paragraph 3.2.1 (the "**Revised Actual Performance**");
		3. calculate any Retained Amount in respect of the Payment Audit Period by extrapolating the Revised Actual Performance to all relevant Performance Indicators ("**Revised Retained Amount**"); and
		4. provide to the Supplier a report setting out the data calculated pursuant to Paragraph 3.2.2 and 3.2.3 (a "**Revised Performance Report**").
	3. If the Supplier is able to demonstrate to the Customer that the Customer's calculation of Revised Actual Performance against any of the Call-Off Contract Performance Indicators or calculation of the Revised Retained Amount as stated in the Revised Performance Report is not correct, it shall notify the Customer in writing of the Supplier's assessment of Revised Actual Performance or Revised Retained Amount calculations within ten (10) Working Days after receipt by the Supplier of the Revised Performance Report. If the Parties fail to reach agreement as to the assessment of the Revised Actual Performance or Revised Retained Amount calculation within twenty (20) Working Days after the date of the notification, the matter shall be resolved in accordance with the Dispute Resolution Procedure.
	4. Following receipt of the Revised Performance Report:
		1. if the Customer accepts the Supplier's recalculation of Revised Actual Performance or Revised Retained Amount pursuant to Paragraph 3.3; or
		2. following agreement or resolution of any dispute over the calculation in accordance with Paragraph 3.3; or
		3. if the Supplier does not dispute the Customer's calculation of the Revised Actual Performance or Revised Retained Amount,
		4. without prejudice to any other rights and remedies the Customer may have under the Framework Agreement and subject to Paragraph 3.5, the Revised Retained Amount shall become immediately due and payable (and the Customer shall have the right to set-off against any future invoice) and the Customer shall have the right to exercise any other right or remedy available to it under a Call-Off Contract or otherwise.
	5. Without prejudice to any other rights and remedies the Customer may have under any Call-Off Contract, if the Revised Retained Amount is higher than the Retained Amount detailed pursuant to Paragraph 2.1, the Supplier shall re-pay to the Customer any part of the Charges overpaid within twenty (20) Working Days after the date of the Revised Performance Report and the Customer may deduct the relevant amount from the Charges if the Supplier fails to make this payment.
	6. If the Revised Retained Amount is lower than the Retained Amount detailed pursuant to Paragraph 2.1, the Supplier shall not be entitled to any additional Charges.
6. Governance
	1. The Supplier and the Customer shall discuss the achievement or failure to achieve the Call-Off Contract Performance Indicators and the application of a Retained Amount at the Service Management Board as contemplated in Schedule 8.1 (Governance) and the Supplier shall notify the Customer at the Service Management Board of the likelihood of any failures to meet the Call-Off Contract Performance Indicators in the next month.
	2. If the Supplier is able to demonstrate to the Customer that the Customer's calculation of actual performance against any of the Call-Off Contract Performance Indicators or calculation of the Retained Amount as stated in the Quarterly Performance Report, is not correct or the Supplier's Performance Failure was incurred solely as a result of a Customer Cause, it shall notify the Customer in writing of the Supplier's assessment of actual performance or Retained Amount calculations within ten (10) Working Days after receipt by the Supplier of the Quarterly Performance Report, as the case may be.
	3. If the Parties fail to reach agreement as to the assessment of the actual performance or Retained Amount calculation or the reason for the Supplier's Performance Failure immediately following notification, the matter shall be resolved in accordance with the Dispute Resolution Procedure.
	4. Following receipt of the Quarterly Performance Report:
		* 1. if the Customer accepts the Supplier's recalculation of actual performance or any Retained Amount pursuant to Paragraph 4.2;
			2. following agreement or resolution of any Dispute over the calculation in accordance with Paragraph 4.3; or
			3. if the Supplier does not Dispute the Customer's calculation of the actual performance or any Retained Amount,

without prejudice to any other rights and remedies the Customer may have under the Call-Off Contract, the Retained Amount shall apply immediately and the Customer shall have the right to exercise any other right or remedy available to it under a Call-Off Contract or otherwise.

1. Number of data points
	1. In respect of each Call-Off Contract Performance Indicator, if the Authority's calculation of actual performance pursuant to Paragraph 2.1 is based on less than 30 Data Points, then:
		1. any Retained Amount calculated as payable under Paragraph 2.1.2 shall be deemed to have accrued for that Measurement Period in accordance with Paragraph 3 of Part 1 but shall be deducted on a Quarterly basis in accordance with Paragraph 3.8 of Part 1;
		2. in subsequent Measurement Periods in that Call-Off Contract Year, the Customer's calculation of actual performance pursuant to Paragraph 2.1 shall take account of the Data Points in all previous Measurement Periods in that Call-Off Contract Year in which actual performance against a Call-Off Contract Performance Indicator as calculated on the basis of less than 30 Data Points; and
		3. once actual performance pursuant to Paragraph 2.1 is calculated on the basis of at least 30 Data Points or, if earlier, in the final Measurement Period of the relevant Call-Off Contract Year, any Retained Amount calculated as payable under Paragraph 2.1.2shall be deducted in accordance with Paragraph 3.8 of Part A.

For the purposes of this Paragraph 5.1, "**Data Point**" means the unit used to measure performance under each Call-Off Contract Performance Indicator in Appendix 1 of Schedule 2.2 (Call-Off Performance Levels).

1. Equality and diversity
	1. The data provided by the Supplier in accordance with Paragraph 1.1 shall be collected by the Supplier and provided in a way that enables its provision of the Services to be analysed by protected characteristic (as defined in the Equalities Act 2010).
	2. If the data collected in accordance with Paragraph 6.1 demonstrates, with respect to a Call-Off Contract Year, that a Call-Off Contract Performance Indicator is not being met with respect to a particular protected characteristic, the Customer may require the Supplier to produce an Improvement Plan in accordance with Clause 31 of the Framework Agreement and such Improvement Plan shall detail how more equitable outcomes shall be achieved by the Supplier.
	3.
2. framework performance indicators

Each Framework Performance Indicator is described in further detail in a Technical Note and such Technical Notes shall be used to facilitate the application of the Framework Performance Indicator (and, therefore, ultimately the Call-Off Contract Performance Indicators).

| **Framework Performance Indicator** | **Definition and formula for calculating actual performance** | **Frequency of Measurement** | **Target Performance Level** | **Trigger Level** | **Retained Percentage** |
| --- | --- | --- | --- | --- | --- |
| **SL1 -** Supplier Assessment Appointment offered to Referred Service Users | The percentage of Referred Service Users who were offered a Supplier Assessment Appointment within ten (10) Working Days of Referral.For the avoidance of doubt any Call-Off Contract Performance Indicator shall be calculated and measured on the fact that Neutral Outcomes shall not be included in the calculation of Negative Outcomes or Positive Outcomes. | Reported for each Service PeriodMeasurement Period – No more frequently than Quarterly | As set out in the Call-Off Contract | As set out in the Call-Off Contract | As set out in the Call-Off Contract |
| **SL2 -** Intervention Appointment attended by Service User | The percentage of Referred Service Users assessed as suitable who attended an Intervention Appointment (which may include the Intervention Commencement Appointment).For the avoidance of doubt any Call-Off Contract Performance Indicator shall be calculated and measured on the fact that Neutral Outcomes shall not be included in the calculation of Negative Outcomes or Positive Outcomes.  | Reported for each Service PeriodMeasurement Period - No more frequently than Quarterly | As set out in the Call-Off Contract | As set out in the Call-Off Contract | As set out in the Call-Off Contract |
| **QM1 -** Quality of delivery of intervention: provision enables Service Users to make progress in addressing their offending related needs and achievement of Agreed Outcomes | The Audit Score (calculated in accordance with Appendix 2 of this Schedule 2.2 (Performance Levels)) in respect of the assessment of whether sufficient interventions of appropriate quality delivered in a manner that (a) enables Referred Service Users to make progress in addressing their offending related needs; and(b) the Agreed Outcomes in each Service User's Action Plan are sufficiently achieved  | Reported for each Service PeriodMeasurement Period – annual | Green   | Red |
| **QM2 -** Quality liaison with Responsible Officer: supports offender management, risk management, enforcement, and sentence delivery | The Audit Score (calculated in accordance with Appendix 2 of this Schedule 2.2 (Performance Levels)) in respect of the assessment of whether liaison with Responsible Officers supports offender management, risk management, enforcement and sentence delivery including pre and post release from custody. | Reported for each Service PeriodMeasurement Period –annual | Green   | Red |

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1. ASSESSing quality and operational assurance
2. Operational Assurance
	1. The quality of the Services (including compliance with the Quality Measures) shall be assessed through the Authority's operational assurance methodology (or that of any Customer as notified to the Supplier and set out in a Call-Off Contract).
	2. The Operational Assurance Group (OSAG) shall have oversight and governance responsibility for carrying out operational assurance audits throughout the Call-Off Term.
	3. The Authority shall issue the OSAG's terms of reference to the Supplier from time to time provided that it shall generally adhere to the following principles:
		* 1. full audits will consist of identification of a number of sources of data such as case reviews, interviews, performance data, analysis of policies and visits;
			2. audit findings shall, where appropriate, be evidenced by results from more than one (1) source of data to ensure a robust process;
			3. audits will be based on samples which will be selected in line with the National Audit Office methodologies and shall be notified to the Supplier from time to time;
			4. from time to time, rather than a full audit, the Authority may carry out remote case monitoring where possible and liaise with Her Majesty's Inspectorate Probation to avoid any duplication or simultaneous demands on the Supplier.
3. quality
	1. Audits will consider key lines of enquiry (KLOE) in respect of operational delivery of relevant aspects of the Service User journey.
	2. The KLOEs will be notified by the Authority to the Supplier from time to time.
	3. The Authority will assess in each case whether the Supplier is providing the Services in accordance with Good Industry Practice and for this purpose Good Industry Practice means at any time:
		* 1. compliance by the Supplier in full with all applicable Laws and contractual obligations;
			2. compliance with the Probation Instructions and any associated guidance issued by the Authority from time to time and/or evidence based practice;
			3. where appropriate in the circumstances, the exercise of care, skill, diligence, prudence, efficiency, foresight and timeliness which would be reasonably expected of a skilled and experienced operator of services similar to the Services in similar circumstances; and
			4. to the extent the particular circumstances are not covered by any of the above, taking actions that are reasonable in the relevant circumstances taking into account all relevant information available to the Supplier and the Authority's objectives as notified to the Supplier by the Authority from time to time.
	4. In considering the experience of the Service User the Authority shall be entitled to specify the quality assurance questions utilised by the Supplier from time to time.
4. quality measure Audit Score
	1. For the purposes of each Quality Measure the Audit Score shall be calculated for each Measurement Period following the Authority's methodology which shall be disclosed to the Supplier and updated from time to time.
	2. Following review of the sample cases the Customer shall aggregate the audit results to provide an overall percentage score for the Supplier for the relevant Measurement Period which shall then be converted into an Audit Score in accordance with the table below:

|  |  |
| --- | --- |
| **Audit Score** | **Percentage Score** |
| Green | 87% or more |
| Amber/Green | >72% but <87% |
| Amber/Red | 60% - 72% |
| Red | <60% |