

**Dated**

**2023**

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**CUMBERLAND COUNCIL (1)**

and

**WESTMORLAND AND FURNESS COUNCIL (2)**

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**INTER AUTHORITY AGREEMENT  
in relation to  
Continuing Shared Services and Hosted Contracts**

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**WORKING DRAFT AS AT 23 MARCH 2023**

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**DRAFT**

**THIS AGREEMENT** is made the

day of

**2023**

**BETWEEN**

- (1) **CUMBERLAND COUNCIL** of Cumbria House, 117 Botchergate, Carlisle CA1 1RD;
- (2) **WESTMORLAND AND FURNESS COUNCIL** of South Lakeland House, Lowther Street, Kendal, Cumbria LA9 4DQ;

Each an “**Authority**” and together “the **Authorities**”

**WHEREAS**

Pursuant to the Cumbria (Structural Changes) Order 2022 on 1<sup>st</sup> April 2023

- (A) The County of Cumbria is abolished as a local government area and the Cumbria County Council is wound up and dissolved.
- (B) The Allerdale Borough Council, Carlisle City Council and Copeland Borough Council (the Cumberland Authorities) and the Barrow-in-Furness Borough Council, Eden District Council and South Lakeland District Council (the Westmorland and Furness Authorities) are abolished as local government areas and are wound up and dissolved.
- (C) A new district council to be known as Cumberland is established as the sole principal authority for the non-metropolitan district of Cumberland.
- (D) A new district council to be known as Westmorland and Furness is established as the sole principal authority for the non-metropolitan district of Westmorland and Furness.
- (E) During the shadow period Cumberland Council and Westmorland and Furness Council are each a shadow authority.
- (F) The Authorities are under a duty to take all such practical steps as are necessary or expedient to prepare for the assumption, as Cumberland Council or Westmorland and Furness Council, of local government functions and full local authority powers on 1st April 2023 and to prepare any budgets or plans required by Cumberland Council or Westmorland and Furness Council when those functions are assumed.
- (G) The Authorities have agreed that for varying periods of time the exercise of their duties is best served by way of certain functions and services being discharged and delivered as a number of shared services and that certain former Cumbria County Council contracts should be managed jointly.
- (H) This Agreement sets out the arrangements for an executive joint committee to undertake responsibility for the governance of those Functions and Services.
- (I) This Agreement further sets out the arrangements and general terms on which the Authorities will: administer and exercise responsibility for the discharge and delivery of the Functions and Services by one Authority, acting as the Host Authority, for and on behalf of the other Authority; and manage Hosted Contracts.

IT IS HEREBY agreed as follows –

## 1 DEFINITIONS AND INTERPRETATION

1.1 In this Agreement unless the context otherwise requires the following expressions have the following meanings:

**Additional Work** means any delivery by the Host Authority in respect of a particular Function and Service that falls outside the Service Strategy.

**[Assets** means such property, rights and liabilities as is referred to in the Section 16 Agreement (defined further below)]

**Agreement** means this Agreement comprising the terms and conditions together with the Schedules and Appendices attached hereto.

**Commencement Date** means the 1<sup>st</sup> April 2023.

**Commissioner** means the Information Commissioner (as defined in section 3(8) of the DPA 2018).

**Confidential Information** has the meaning given in Clause 20.2.

**Data Protection Legislation** means all applicable data protection and privacy legislation in force from time to time in the United Kingdom (UK) including without limitation the UK GDPR; the Data Protection Act 2018 (**DPA 2018**); the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; and the guidance and codes of practice issued by the Commissioner and which are applicable to one or both of the Authorities.

**Democratic Services** means the democratic services Officers of an Authority.

**EIR** means the Environmental Information Regulations 2004.

**Emergency** means:

- (a) the occurrence of one or more events that will cause: any of the Functions and Services; or a material part of any of the Functions and Services; and/or the whole or part of any delivery under the Hosted Contract to be unavailable (or the reasonable anticipation of such occurrence); or
- (b) an event or occurrence which:
  - (i) constitutes an emergency for the purposes of the Civil Contingencies Act 2004; and/or
  - (ii) constitutes an emergency under local and community risk registers.

**Existing Claims** means a claim made by or against Cumbria County Council in respect of a Function and Service prior to the Commencement Date or relating to the discharge of a Function and Service in the period prior to the Commencement Date.

**FOIA** means the Freedom of Information Act 2000.

**Functions and Services** means those shared workings, both hosted or provided and received, as set out at Clause 7 and Schedules 1 and 1A to this Agreement.

**Host Authority** means either: (a) the Authority designated as the Host Authority in respect of the Functions and Services as detailed in the relevant Service Strategy; or (b) the Authority designated as the Host Authority in respect of a Hosted Contract as detailed in the relevant Hosted Contract Schedule.

**Hosted Contract** means a contract previously entered into by Cumbria County Council that has transferred to one of the Authorities with effect from the Commencement Date and that both Authorities need to access for the remainder of the Hosted Contract's duration. The Hosted Contracts are further detailed in the Hosted Contract Schedules.

**Hosted Contract Schedule** means the schedule for each Hosted Contract set out at Schedule 7 of this Agreement as the same may be amended in accordance with the terms of this Agreement.

**Hosted Service** means a shared Function or Service held or delivered by the Host Authority.

**Intellectual Property Rights** means patents, inventions, trade marks, service marks, logos, design rights, rights in goodwill or to sue for passing off, copyright, database rights, domain names, trade or business names, moral rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications for renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world.

**Joint Executive Committee** has the meaning given in Clause 6.1.

**Joint Officer Board** means the joint board of Officers established in accordance with Clause 6.3.

**Joint Overview and Scrutiny Committee** has the meaning given in Clause 6.2.

**Law** means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, retained EU law within the meaning of section 6(7) of the European Union (Withdrawal) Act 2018, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which an Authority is bound to comply.

**Leader** means the Member holding the position of leader of an Authority.

**Lead Officer** means an officer of the Host Authority or the Recipient Authority in respect of each Function and Service or Hosted Contract responsible for being the primary point of contact for the other Authority.

**Losses** means all losses, liabilities, damages, demands, charges, fines, debt/indebtedness, costs, and expenses (including legal and other professional charges and expenses) litigation, settlement, judgement interest and penalties whether arising in contract, tort (including negligence), breach or statutory duty or otherwise and the term "**Loss**" shall be construed accordingly.

**Members** means the members of the Authorities, and "Member" shall mean a member of an Authority as the context provides.

**Monitoring Officer** means that officer designated by each of the Authorities as the officer having responsibility for performing the duties imposed by sections 5 and 5A of the Local Government and Housing Act 1989.

**Officer** means a person appointed to a paid office or employment by an Authority pursuant to section 112 of the Local Government Act 1972 and section 7 of the Local Government and Housing Act 1989.

**Personal Data** has the meaning set out in the Data Protection Legislation.

**Provider** means a provider under a Hosted Contract.

**Recipient Authority** means in the case of either the Functions and Services or a Hosted Contract the Authority that is not the Host Authority.

**Section 151 Officer** means that officer designated by each of the Authorities as the person having responsibility for the administration of the financial affairs of a relevant authority under section 151 of the Local Government Act 1972.

**Section 16 Agreement** means the agreement between the Authorities dated [ ] 2023 entered into pursuant to section 16, Local Government and Public Involvement in Health Act 2007.

**Service Strategy** means in respect of each of the Functions and Services the document detailing the agreed approach to delivering the relevant Functions and Services as detailed at Schedule 1 of this Agreement as the same may be amended in accordance with the terms of this Agreement.

**Special Categories of Personal Data** has the meaning set out in the Data Protection Legislation and for the purposes of the Contract shall include information relating to criminal convictions and offences.

**UK GDPR** has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018.

**Working Day** means Monday to Friday inclusive but does not include any such days which are bank holidays or public holidays.

- 1.2 Reference to any statute or statutory provision includes a reference to that statute or statutory provision as from time to time amended extended or re-enacted.
- 1.3 Words importing the singular include the plural words importing any gender include every gender, the words importing persons include bodies corporate and unincorporated; and (in each case) vice versa.
- 1.4 Reference to Clauses and Schedules are references to Clauses and Schedules of this Agreement and any reference to a sub provision is unless otherwise stated a reference to a sub provision of the provision in which the reference appears.
- 1.5 The Clause and Paragraph headings and titles appearing in this Agreement are for reference only and shall not affect its construction or interpretation.
- 1.6 References in this Agreement to “key decision” are to a decision having the characteristics of a key decision as defined in each Authority’s constitution.

## **2 COMMENCEMENT, TERM AND REVIEW**

- 2.1 This Agreement shall come into effect on the Commencement Date and shall continue in force from year to year until terminated in accordance with Clause 26.
- 2.2 The Authorities respective obligations in respect of each Hosted Contract shall continue until the earlier of:
  - 2.2.1 the termination of this Agreement; or
  - 2.2.2 such time as the Hosted Contract has been expired or terminated and all residual obligations and liabilities under the Hosted Contract have been discharged.
- 2.3 Each of the Functions and Services detailed in a Service Strategy shall continue until the earlier of:
  - 2.3.1 the termination of this Agreement;
  - 2.3.2 any date for the disaggregation of the Functions and Services set out in a Service Strategy or otherwise agreed between the Authorities; or
  - 2.3.3 the termination of any Service Strategy in accordance with Clause 26.

- 2.4 The Authorities shall review the Agreement on or before each anniversary of the Commencement Date following which review they may agree to vary the terms of this Agreement in writing by mutual agreement. Such review shall be facilitated through the Joint Officer Board and the Joint Executive Committee in accordance with their respective terms of reference.
- 2.5 Delivery of each of the Functions and Services and each Hosted Contract shall be kept under review by those Officers of each Authority responsible for discharging the functions of the Hosted Authority and the Recipient Authority in accordance with any review and management arrangements detailed in the applicable Service Strategy or Hosted Contract Schedule.
- 2.6 Notwithstanding Clause 2.5, either Authority may request a review of any Functions and Services or Hosted Contract. Such review shall be facilitated through the Joint Officer Board and the Joint Executive Committee in accordance with their respective terms of reference

### **3 GENERAL PRINCIPLES**

- 3.1 Pursuant to Section 101(5) and 113 of the Local Government Act 1972 and to their powers under section 9EB of the Local Government Act 2000 and Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 and any other enabling legislation, the Authorities have agreed that:
  - 3.1.1 the exercise of responsibility for the discharge and delivery of the executive Functions and Services shall be delegated to the Joint Executive Committee;
  - 3.1.2 the relevant Recipient Authority has agreed to the discharge and delivery of the Functions and Services set out in Schedule 1 (Shared Functions and Services) of this Agreement by the Host Authority; and
  - 3.1.3 the relevant Host Authority has agreed to discharge and deliver the Functions and Services set out in Schedule 1 (Shared Functions and Services) of this Agreement in accordance with this Agreement and in compliance with all relevant Law.
- 3.2 Those elements of a Function or Service that are to be discharged or delivered by the Host Authority but cannot lawfully be delegated, in full or in part, shall result in the respective Authorities retaining the power to exercise responsibility for such functions and the delegations or reservations pertaining to the relevant Authority's Constitution shall apply.
- 3.3 The Authorities will work together in partnership and in an open, co-operative and collaborative manner for the duration of this Agreement. The Authorities' Members and Officers will work together in order to endeavour to successfully implement the purposes of this Agreement and to fulfil their duties in respect of the Functions and Services as best value authorities pursuant section 3 of the Local Government Act 1999.
- 3.4 Each of the Authorities hereby represents to the other that it has obtained all necessary consents sufficient to ensure any delegation of functions provided for by this Agreement for the purposes of the Functions and Services.
- 3.5 The Authorities commit to share data and knowledge relevant to the Functions and Services where appropriate and in accordance with their duties under Data Protection Legislation and the provisions of this Agreement relating to data protection.
- 3.6 The Authorities shall review the terms of this Agreement in accordance with Clause 2. Any changes to the terms shall only be made by agreement between the Authorities and shall be recorded in writing and signed by the Authorities. Changes shall take effect upon signing and continue in force until termination or any further changes agreed in accordance with this Clause or other part of this Agreement.
- 3.7 Changes to any Service Strategy may be approved by the Joint Executive Committee on recommendation from the Joint Officer Board in accordance with their respective terms of reference.



- 3.8 The Authorities agree that this Agreement is made pursuant to the provisions of section 103 (expenses of joint committees) of the Local Government Act 1972.

#### 4 STATUS OF THE AGREEMENT

- 4.1 The Authorities agree that this Agreement shall take the form of a legally binding relationship and all mutual commitments between them created by this Agreement shall from the Commencement Date be construed accordingly.

#### 5 AUTHORITIES' OBJECTIVES

- 5.1 This Agreement has been entered into by the Authorities for the purposes of:
- 5.1.1 ensuring continuity of the delivery of public services on and after 1st April 2023 in an effective manner; and
  - 5.1.2 ensuring economic and efficient transitional arrangements which will facilitate the disaggregation of public services where appropriate.
- 5.2 The Authorities are entering into this Agreement in reliance on the exception set out in Regulation 12(7), Public Contracts Regulations 2015 and each acknowledges and agrees that it is:
- 5.2.1 establishing and implementing a cooperation on the terms set out in this Agreement between itself and the other Authority (each of which is a contracting authority for the purposes of the Public Contracts Regulations 2015) with the aim of ensuring that public services they have to perform are provided with a view to achieving the objectives above and as detailed in the Service Strategies and Hosted Contract Schedules or otherwise agreed jointly through the Joint Executive Committee;
  - 5.2.2 the implementation of such cooperation is governed solely by considerations relating to the public interest; and
  - 5.2.3 neither Authority performs on the open market more than twenty percent (20%) of the activities concerned by the cooperation.

#### 6 GOVERNANCE ARRANGEMENTS

- 6.1 The Authorities have established an executive joint committee pursuant to section 101(5) of the Local Government Act 1972 (the **Joint Executive Committee**). The membership and terms of reference for Joint Executive Committee are set out at Schedule 1 of this Agreement.
- 6.2 The Authorities have established a joint overview and scrutiny committee for the purpose of exercising their functions under section 9F of the Local Government Act 2000 and Part 4 (joint exercise of functions) of the Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012 in respect of those responsibilities exercised by the joint committee (the **Joint Overview and Scrutiny Committee**). The membership and terms of reference for this joint committee are set out at Schedule 3 of this Agreement.
- 6.3 The Authorities have set up a Joint Officer Board. The membership and terms of reference for this Board are set out at Schedule 1 of this Agreement.
- 6.4 A scheme of delegation from the Joint Executive Committee to Officers shall be maintained.
- 6.5 The Authorities agree that they will ensure that their individual schemes of delegation relevant to the Functions and Services and the Hosted Contracts are aligned.

6.6 During each financial year, the Joint Executive Committee and the Joint Overview and Scrutiny Committee will each be hosted by the Authority whose Member holds the chair of the relevant committee in accordance with the provisions of the terms of reference.

## 7 FUNCTIONS AND SERVICES

7.1 The Functions and Services subject to this Agreement shall be as set out in the list of Functions and Services at Schedule 1 or as otherwise agreed by the Joint Executive Committee from time to time.

7.2 Each Function and Service shall be delivered in accordance with the terms of this Agreement and the relevant Service Strategy. Each Service Strategy shall contain as appropriate further detail, agreement, plans and explanatory comment as to:

7.2.1 Functions and Services Description;

7.2.2 Functions (including any retained functions/dependencies of the Recipient Authority or support services to be provided by the Recipient Authority not falling within another Service Strategy);

7.2.3 Host Authority and Recipient Authority (including Lead Officer);

7.2.4 Governance including lead officers and requirements for engagement with and decision making by the Recipient Authority and any Function/Service specific review;

7.2.5 Performance management metric/standards and key performance indicators for joint performance management and review of the Function and Service;

7.2.6 Applicable policies;

7.2.7 Period to run;

7.2.8 Financial Planning, annual revenue budget and Financial Recovery (including Budget proportion split, liability split if different and arrangements for approval of demand led expenditure (where relevant));

7.2.9 Service Planning, Performance Standards and Reporting;

7.2.10 Staffing;

7.2.11 Outsourcing and Contractor arrangements (including PFI) and commissioning plans;

7.2.12 Premises and service specific assets utilised in Function and Service (including approach on future disaggregation of Function and Service);

7.2.13 IT and Information Assets;

7.2.14 Data Protection arrangements; and

7.2.15 Disaggregation and continuity of provision subsequent to the termination of the shared service (to include exit planning).

7.3 The Service Strategies as at the Commencement Date are set out at Schedule 1 and are deemed to be effective from the Commencement Date and the Authorities shall discharge their respective obligations in accordance with the adopted Service Strategy. Changes to the Service Strategies may be approved by the Joint Executive Committee at any time for the relevant Function and Service in accordance with this Agreement. Any amendments to the Service Strategies agreed by the Joint Executive Committee are deemed to form part of this Agreement and the Authorities shall discharge their respective obligations in accordance with the revised Service Strategy.

7.4 The delivery of the Functions and Services shall be monitored by the Authorities jointly including through the Joint Executive Committee and the Joint Officer Board against the performance metrics, key performance indicators and standards set out in the Services Strategies and as developed jointly through the Joint Executive Committee. Where issues in delivery arise then the Authorities shall, through the Joint Executive Committee and the Joint Officer Board, develop and agree improvement plans. Once adopted by the Joint Executive Committee, the Authorities shall discharge their respective obligations under this Agreement and the Service Strategies so as to facilitate improvement in line with the improvement plan.

7.5 Subject to any differing arrangements as set out in any individual Service Strategy, the development and management of the annual budget shall be as set out in Schedule 8 (Finance) and Appendix 1, as may be amended from time to time by agreement of the Parties.

## 8 HOSTED CONTRACTS

8.1 In respect of each Hosted Contract, the Host Authority shall:

- 8.1.1 manage the Hosted Contract in accordance with its terms and the management requirements set out in the relevant Hosted Contract Schedule and provide such suitably qualified and experienced personnel as are reasonably required to discharge its obligations;
- 8.1.2 procure access to the Hosted Contract by the Recipient Authority and delivery by the Provider for the benefit of the Recipient Authority in accordance with the requirements set out in the relevant Hosted Contract Schedule;
- 8.1.3 submit such invoices, management and performance information to the Recipient Authority as is detailed in the relevant Hosted Contract Schedule;
- 8.1.4 pay all such sums received from the Recipient Authority (where relevant) that are due to the Provider; and
- 8.1.5 not act or omit to act in any way which would place the Host Authority in breach of the Hosted Contract.

8.2 In respect of each Hosted Contract, the Recipient Authority shall:

- 8.2.1 undertake such activities or provide such dependencies as are detailed in the relevant Hosted Contract Schedule;
- 8.2.2 only engage directly with the Provider in respect of delivery under the Hosted Contract to the extent provided for in the relevant Hosted Contract Schedule;
- 8.2.3 not act or omit to act in any way which would place the Host Authority in breach of the Hosted Contract;
- 8.2.4 provide all such information and assistance to the Host Authority as is stated in the relevant Hosted Contract Schedule or otherwise reasonably required by the Host Authority to enable the Host Authority to discharge its obligations under the Hosted Contract;
- 8.2.5 pay all such sums properly due to the Provider in respect of the delivery to the Recipient Authority by the Provider under the Hosted Contract to the Recipient Authority as determined in accordance with the relevant Hosted Contract Schedule including the timescale for such payment. Payment to be made to the Host Authority or, where permitted by the Hosted Contract Schedule, the Provider direct; and

8.3 The Authorities agree that save where the contrary is expressly stated in the relevant Hosted Contract Schedule, any decision to extend or terminate a Hosted Contract requires the agreement of both Authorities.

8.4 The Authorities agree that:

- 8.4.1 subject to Clause 8.4.2, any liability incurred by the Host Authority under the Hosted Contract shall be shared between the Authorities in such proportion as is detailed in the Hosted Contract Schedule;
- 8.4.2 where liability is incurred under the Hosted Contract that relates solely to one Authority's actions or omissions (which includes where the Host Authority acts in breach of the

requirements of this Agreement relating to Hosted Contract) or to any delivery by the Provider that relates solely to one Authority then that relevant Authority shall be responsible for the entirety of the liability incurred unless agreed otherwise between the Authorities; and

8.4.3 any sums due from the Provider under the Agreement shall be split in the proportions referred to in Clause 8.4.1 save where the sum clearly relates to just one Authority.

8.5 Each Authority indemnifies and holds harmless the other in full against all liabilities attributable to it pursuant to Clause 8.4 and all Losses suffered or incurred by the other Authority arising out of or in connection with breach by the indemnifying Authority of the provisions of this Agreement relating to Hosted Contract and/or the requirements of the Hosted Contract Schedule.

8.6 The Hosted Contract Schedules may be changed by written agreement between the Authorities (including acting by their respective Lead Officers).

## **9 INTEGRATION OF STAFF**

9.1 The posts within each Function and Service are detailed in the relevant Service Strategy. The Host Authority will not advertise new posts within the Function and Service without prior agreement of the relevant Lead Officer Recipient Authority (even if the cost is within the agreed budget).

9.2 The Authorities will seek to assist one another by making appropriate staff available during staffing shortages, absences in order to facilitate joint working and efficiency.

9.3 The Authorities agree that they each shall comply with all of its obligations regarding the transfer of staff in accordance with Schedule 5.

9.4 The Authorities agree that where any Officer of either Authority is placed at the disposal of the other for the purposes of this Agreement then the provisions of section 113 of the Local Government Act 1972 shall apply and the employing Authority undertakes that it shall have duly consulted such Officers prior to placing them at the other Authority's disposal and that the employing Authority shall continue to treat such officers as its own employed staff.

9.5 A written record of which Officers shall be treated as seconded under section 113 of the Local Government Act 1972 and the purposes of their secondment shall be agreed between the Authorities from time to time.

## **10 POLICIES, PROCEDURES AND MEETINGS**

10.1 With effect from the Commencement Date the Authorities agree that the relevant policies and procedures of the former Cumbria County Council or any different policies and procedures agreed between the Authorities shall apply to the relevant Functions and Services until changed by agreement of the Authorities or, where falling within its authority, the Joint Executive Committee. The Authorities agree to align policies and procedures as far as is practicable in relation to the discharge and delivery of the Functions and Services and shall consult with each other prior to making any change to such aligned policies and procedures.

10.2 In developing new policies in relation to the Functions and Services, the Authorities agree to consult each other and to develop a single agreed policy wherever possible to be submitted to the Joint Executive Committee for consideration and adoption.

10.3 The Authorities shall endeavour to develop and utilise an aligned template for use by the Joint Executive Committee, Joint Overview and Scrutiny Committee and Joint Officer Board.

## **11 LIMITATION OF LIABILITY AND INDEMNITIES**

**[NOTE – Clause 11 is subject to further review by the insurers.]**

- 11.1 Notwithstanding any other provision of this Agreement, the Authorities do not limit or exclude their liability for:
- 11.1.1 death or personal injury caused by its negligence (for the avoidance of doubt 'personal injury' shall include injury caused by sexual, emotional or physical abuse);
  - 11.1.2 fraud or fraudulent misrepresentation;
  - 11.1.3 breach of any obligation as to title implied by section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or
  - 11.1.4 any liability to the extent it cannot be limited or excluded by Law.
- 11.2 The Authorities shall at all times take reasonable steps to minimise and mitigate any Loss for which they are entitled to bring a claim against the other Authority pursuant to this Agreement.
- 11.3 Subject to Clauses 11.16, 11.20, 11.21 and 11.22, the Authorities agree that any Losses relating to the Functions and Services shall be shared between them in accordance with the proportionate budget split set out in the relevant Service Strategy [save in the case of Existing Claims which will be dealt with under the terms of the Section 16 Agreement].
- 11.4 Other than those Losses covered by the insurances provided by the Authorities under Clause 11.5 and subject to Clause 11.3, each Authority shall indemnify the other against all Losses whatsoever in respect of or in any way arising out of or in connection with the discharge of the Function and the delivery of the Services or any part of them or other work carried out pursuant to this Agreement or their respective obligations in respect of the Hosted Contracts.
- 11.5 The Authorities shall each ensure that they effect, maintain and notify each other annually of adequate insurance cover in respect of:
- 11.5.1 any property held by it for the purposes of this Agreement;
  - 11.5.2 employers' liability;
  - 11.5.3 public liability of £50,000,000 (fifty million pounds);
  - 11.5.4 public officials liability;
  - 11.5.5 professional indemnity; and
  - 11.5.6 any other insurances sufficient to cover all of their obligations under this Agreement.
- Each Authority shall indemnify the other against Loss sustained as a result of breach of this Clause.
- 11.6 Either Authority may self-insure for all insurances except those at clause 11.5.2 and 11.5.3 if the other Authority agrees in writing.
- 11.7 Each Authority must also ensure that any of its sub-contractors that are providing any or all of the Services on its behalf take out and maintain equivalent insurance to levels of cover as required by the Authorities.
- 11.8 No Authority shall take any action or fail to take any reasonable action or (insofar as it is reasonably within its power) allow anything to occur (including a failure to disclose any fact) which would entitle any insurer to refuse to pay any claim under an insurance policy in which that Authority is assured, a co-insured or an additional person or which may make such a claim wholly or partly repayable.
- 11.9 Each Authority shall provide to the others on request:
- 11.9.1 Copies of insurance policies required to be maintained under this Clause 11 ; and

- 11.9.2 Evidence that the premiums under all insurances have been paid and that the insurances are in full force and effect in accordance with the requirements of this Clause 11.
- 11.10 The Authorities shall work in co-operation during the term the Agreement to seek to align their respective insurance arrangements.
- 11.11 The Host Authority shall from the Commencement Date institute and defend all such claims or legal proceedings as they find reasonable to do so arising out of or in connection with the discharge of the Function and the delivery of the Services for the Recipient Authority PROVIDED ALWAYS that:
- 11.11.1 where the claims or legal proceedings are covered by full indemnity and cover under the insurances of the Host Authority the Host Authority shall consider any advice offered by the Recipient Authority in relation to the prosecution, defence, compromise or settlement of any proceedings taken or defended in accordance with this Clause 11.11.1 to which the Recipient Authority is a party in the High Court of Justice the Court of Appeal or the Supreme Court but the Host Authority shall not be obliged to take any step or any action that may compromise any claim under any insurance held by it; and
- 11.11.2 where the claims or legal proceedings do not fall within Clause 11.11.1 and the Recipient Authority (either directly or through its own insurances) has potential liability then any action taken in the prosecution, defence, compromise or settlement of any proceedings to which the Recipient Authority is a party in the High Court of Justice the Court of Appeal or the Supreme Court or where it is not a party but pursuant to this Agreement shall be responsible for a proportion of any costs or liability associated with the claim or legal proceedings shall be undertaken in agreement with the Recipient Authority.
- 11.12 The Authorities acknowledge that on the Commencement Date all Existing Claims in respect of each Function and Service have vested in the Host Authority pursuant to the Section 16 Agreement. The Host Authority shall be responsible for instituting and defending all such claims or legal proceedings in respect of the Existing Claims that relate to the relevant Function and Service. The provisions of Clause 11.11 shall apply to claims or legal proceedings (even where commenced prior to 1 April 2023) in respect of the Existing Claims save where the Authorities have agreed alternative provisions for managing such Existing Claims under the Section 16 Agreement.
- 11.13 The Authorities shall cooperate with each other in relation to Existing Claims and any other claims falling within Clause 11.11 (including in the sharing of information).
- 11.14 The Host Authority shall use its reasonable endeavours to discharge the Function and deliver the Services in such a way as to minimise third party claims for compensation damages or otherwise for any legal liability arising out of or in connection with the discharge of the Function and delivery of the Services through the negligence, default or neglect of the Host Authority.
- 11.15 The Authorities shall (including through the Joint Officer Board and Joint Executive Committee) performance manage the delivery of the Functions and Services in accordance with the performance management and key performance indicators set out in each Service Strategy so as to secure compliance with their respective functions and statutory obligations and so as to minimise the risk of Losses arising.
- 11.16 Neither Authority shall be liable in tort to the other Authority for any negligent act or omission arising out of or in connection with the discharge of the Function and the delivery of the Services and the only remedy of an Authority is under this Agreement. Each Authority shall procure that no agent, contractor or Officer of that Council brings a claim in tort or otherwise against the other.
- 11.17 In the event of failure by either Authority to reasonably comply with the requirements of this Agreement which results in the other Authority incurring additional expenditure then the Authority at fault shall reimburse the other Authority for the reasonable expenditure so incurred. For the purposes of this Clause 11.15 the Authority at fault shall be provided with evidence of the costs incurred by the other Authority as a result of such failure.

- 11.18 Any indemnity under any provision of this Agreement shall be without prejudice to any indemnity by the same Authority under any other provision of this Agreement.
- 11.19 If either Authority receives any notice, demand, letter or other document concerning any claim for which it appears that said Authority is or may become entitled to be indemnified under this Agreement, that Authority shall notify the other Authority in writing as soon as reasonably practicable and in any event within 2 Working Days of its receipt by the first Authority.
- 11.20 Where either Authority pays to the other an amount in respect of an indemnity and the Authority receiving said indemnity subsequently recovers a sum which is directly referable to the fact, matter, event or circumstances giving rise to the claim under the indemnity the Authority who recovers the sum shall immediately repay the other Authority the lesser of:
- 11.20.1 the sum recovered less any out-of-pocket costs and expenses properly incurred by the Authority in recovering the sum; or
  - 11.20.2 the amount paid to the Authority by the other Authority in respect of the claim under the relevant indemnity.
- 11.21 There is no obligation on an Authority to pursue a recovery under Clause 11.18. The other Authority is repaid by the first Authority only to the extent that the amount of recovery aggregated with the amount paid by the other Authority exceeds the first Authority's Losses.
- 11.22 Each Authority shall indemnify the other Authority from and against all liability for any of the following which arise out of, or in consequence of, the obligations under this Agreement including but not limited to:
- 11.22.1 breach of an Authority of its own supplier contracts relevant to the Functions and Services;
  - 11.22.2 breach of an Authority of the terms of any other Authority's supplier contracts relevant to the Functions and Services.
- 11.23 Each Authority shall indemnify the other from and against all liability for any breach by the contracting Authority of the obligations under any supplier contracts arising out of or in consequence of any non- or part-performance, acts, defaults, omissions, breaches and negligence of an Authority of any obligation in the supplier contract.
- 11.24 An Authority shall not be responsible or be obliged to indemnify any other Authority for:
- 11.24.1 any liability which arises as a direct result of a Authority acting on the instructions of the other Authority (to the extent that the other Authority is entitled to give such instructions); or
  - 11.24.2 any injury, loss damage, cost and expense caused by the negligence, wilful misconduct or a breach of this Agreement by the other Authority or an agent, contractor or Officer of the other Authority.

## **12 MEMBER AND OFFICER LIABILITY**

- 12.1 When acting as a member of the Joint Executive Committee or Joint Overview and Scrutiny Committee, the Members shall be deemed to be working on behalf of their own Authority even where the particular matter under consideration relates to or also relates to the other Authority.
- 12.2 When working in respect of the Functions and Services, as a member of the Joint Officer Board or otherwise pursuant to or in furtherance of this Agreement, Officers shall be deemed to be working on behalf of their employing Authority, and made available and working on behalf of the other Authority under Section 113 of the Local Government Act 1972.

12.3 In consequence of this Clause, both Members and Officers shall be treated as falling within the statutory immunity provided by Sections 265 of the Public Health Act 1875 and 39 of the Local Government (Miscellaneous Provisions) Act 1976.

### **13 PREMISES**

13.1 The Authorities acknowledge that as at the Commencement Date and pursuant to the terms of the Section 16 Agreement, each Authority owns and is responsible for such premises (including such fixtures, fittings, furniture and contents as are detailed in the Section 16 Agreement) owned by Cumbria County Council immediately prior to the Commencement Date as is within their respective administrative areas.

13.2 The Recipient Authority shall make available as required and as agreed by the Authorities from time to time (including as detailed in the Service Strategy) working space and associated facilities and services (including internet connection) to facilitate remote access to the Host Authority to accommodate the number of Officers and any Host Council contractors' staff necessary for the discharge of the Function and the delivery of the Services to be performed at the Recipient Authority's locations in accordance with this Agreement.

13.3 Notwithstanding any other agreement between the Authorities with regard to access to their respective premises, the Recipient Authority hereby grants a licence to the Host Authority to allow any of the Host Authority's Officers or the Host Authority's contractors to enter the Recipient Authority's offices for the purposes only of discharging the Function and delivering the Services and to utilise such associated services and facilities as shall be provided from time to time in accordance with this Clause. Such licences shall expire on the earlier of the termination of this Agreement or, where such premises relate only to certain Functions and Services, the date on which those Functions and Services cease to be incorporated within this Agreement.

13.4 The Authorities agree that no charge shall be made for the provision of such accommodation, facilities and services unless subsequently agreed between the Authorities and approved by the Joint Executive Committee.

13.5 The Host Authority shall, and shall procure that its Officers and contractors shall, comply with the Recipient Authority's policies and procedures relating use of the premises and the Recipient Authority's reasonable instructions including as to health and safety compliance. The Host Authority is responsible for all equipment brought onto the Recipient Authority's premises and shall procure its removal as required including when the licence expires.

### **14 ASSETS**

14.1 The Authorities acknowledge that on the Commencement Date and in accordance with the terms of the Section 16 Agreement, all Assets (excluding any Assets that form part of the premises in accordance with Clause 13.1) relating solely to a particular Function and Service held by Cumbria County Council immediately prior to the Commencement Date will be disaggregated and the Recipient Authority shall transfer its proportion of its Assets to the Host Authority on 1<sup>st</sup> April 2023.

14.2 The Authorities shall agree from time to time and as required the utilisation of or the transfer to the Host Authority from the Recipient Authority of any Assets, not falling within Clause 14.1, belonging to the Recipient Authority for the purpose of the discharge of the Function and the delivery of the Services.

14.3 The transfer or utilisation of any Assets under this clause shall be on such terms as are agreed by the Authorities and approved by the Joint Executive Committee.

14.4 On the termination of this Agreement or, if earlier, any Function and Service ceasing to fall within this Agreement, then the Host Authority shall transfer to the Recipient Authority such proportion of the Assets used in the delivery of the Function and Service in accordance with such arrangements as are detailed in the Service Strategy or otherwise agreed between the Authorities.



14.5 The Host Authority remains responsible during the period that it retains or uses Assets under this Clause 14 for the maintenance, repair and replacement of the Assets in accordance with the agreed budget.

## **15 ICT AND EQUIPMENT**

15.1 Each Authority shall cooperate with each other to make technical specifications available to each other as necessary to ensure the continuous discharge of the Function and the delivery of the Services and shall take appropriate steps to protect against unauthorised access tampering or systems failure of each other's ICT systems.

15.2 From the Commencement Date the Authorities shall ensure that all their Officers engaged in the discharge of the Functions and the delivery of the Services shall have access to all of the Authorities' data as is necessary for the discharge of the relevant Function and the delivery of the relevant Service at the Authorities' offices (and remotely) but shall not have access to any of the Authorities' data which is not relevant to the provision of the Function or the delivery of the Services subject always to compliance with the provisions of this Agreement relating to data protection.

15.3 The Authorities agree that all Officers or contractors will comply with their respective security policies and shall undertake training as necessary and that appropriate security badges to gain entry to accommodation at the Authorities' offices shall be provided to all Officers as appropriate.

## **16 SUPPORT SERVICES AND DEPENDENCIES**

16.1 The Recipient Authority shall:

16.1.1 provide to the Host Authority such administrative and support services in connection with the discharge of the Function and the delivery of the Services; and

16.1.2 discharge such retained functions or dependencies relevant to the discharge of the Functions and the delivery of the Services,

as are detailed in the Service Strategy or otherwise agreed and on such terms as may be agreed by the Authorities and approved by the Joint Executive Committee from time to time.

## **17 PROCUREMENT SERVICES**

17.1 The Host Authority with the agreement of the Recipient Authority and the approval of the Joint Executive Committee (or approval under delegated authority from the Joint Executive Committee) may procure any contract as may be required for the purpose of the discharge of the Functions and the delivery of the Services.

17.2 The costs of any procurement shall be shared equally by the Authorities unless otherwise agreed (including in any Service Schedule) to the extent that such costs are not factored into the agreed budget already.

17.3 Any procurement by the Host Authority shall comply with the Host Authority's procurement rules and procedures and all relevant procurement Law.

17.4 All contracts entered into by the Host Authority on behalf of the Recipient Authority shall:

17.4.1 be made for the benefit of both Authorities and any new supplier or organisation to which the discharge of the Functions and the delivery of the Services may in the future be transferred;

17.4.2 include provision to facilitate the splitting of the contract between the Host Authority and the Recipient Authority where the relevant Functions and Services cease to fall within this Agreement;

- 17.4.3 indemnify the Recipient Authority and any new supplier or organisation to which the discharge of the Functions and the delivery of the Services may in the future be transferred; and
- 17.4.4 be supplier contracts.
- 17.5 The Authorities acknowledge that under any supplier contract:
  - 17.5.1 the contracting Authority is under an obligation to the supplier that the contracting Authority shall not be relieved of, or excused from, any responsibility, liability or obligation under this Agreement by directing the supplier to carry out services or provide goods for the Authorities;
  - 17.5.2 the contracting Authority is under an obligation to the supplier that the contracting Authority shall, as between itself and the supplier be responsible for the performance, acts, defaults, omissions, breaches and negligence of the other Authority;
  - 17.5.3 that all reference in the supplier contract to any act, default, omission, breach or negligence of the contracting Authority shall be deemed to include any such non-performance, act, default, omission, breach or negligence of the other Authority; and
  - 17.5.4 the contracting Authority acknowledges to the other Authority that it will hold any money and all damages it receives from the Supplier on trust for the Authorities.
- 17.6 The contracting Authority and the other Authority shall, and the contracting Authority shall procure that supplier shall, at all times act in a spirit of mutual trust and co-operation towards one another.

## **18 INTELLECTUAL PROPERTY AND BRANDING**

- 18.1 No licence to use any Intellectual Property Rights is granted or implied by this Agreement except the rights expressly granted in this Agreement and nothing in this Agreement is intended to transfer to the Host Authority any Intellectual Property Rights owned by the Recipient Authority as at the Commencement Date.
- 18.2 Each Authority grants to the other an irrevocable, non-exclusive, royalty free licence to copy and use for the purpose of the Function and the Services all materials in which it has Intellectual Property Rights but this licence is not extended to:
  - 18.2.1 copying or using those materials other than in connection with Function and the Services;
  - 18.2.2 granting any other person the right to copy or to use those materials;
  - 18.2.3 selling, transferring or otherwise disposing of or granting rights in those materials;
  - 18.2.4 any materials in which it does not own the Intellectual Property Rights.
- 18.3 Where an Authority is not the owner of the Intellectual Property Rights in material required to be provided to the other Authority for the purpose of the Function and the Services the Authority providing the material shall obtain all necessary consents to provide the material from the owner of the Intellectual Property Rights in said material.
- 18.4 Each Authority shall indemnify and hold harmless the other Authority to whom any materials are provided under this clause against any liability or damages (including costs) that may be awarded or agreed to be paid to any third party because of a claim or action that the normal operation, possession or use of the materials by the Authority to whom the materials have been provided infringes the Intellectual Property Rights of that third party.

- 18.5 The Authorities agree to promptly notify each other in writing of any infringement or potential infringement of their own or each other's or a third party's Intellectual Property Rights in connection with the Function and / or the Services of which it becomes aware.
- 18.6 All or any Intellectual Property Rights in materials developed for and / or in connection with the Function and the Services shall vest in the Authority who developed the material but shall be for the benefit of both Authorities.
- 18.7 The Host Authority shall on expiry or termination of this Agreement for any reason grant to the Recipient Authority a non-exclusive perpetual revocable royalty-free licence to use and copy materials in the Intellectual Property Rights which vest in the Host Authority for the purposes of providing the Function and delivering the Services to the Recipient Authority.
- 18.8 In respect of each Function and Service, the branding and logos for the Function and Service detailed in the relevant Service Strategy or otherwise agreed through the Joint Executive Committee shall be utilised by the Authorities. The Intellectual Property Rights in any such branding and logos shall be held by the Host Authority and Clause 18.2 above applies in respect of a licence to the Recipient Authority provides always that such licence shall be perpetual and extend beyond the life of this Agreement unless otherwise agreed by the Authorities.

## **19 COMPLAINTS HANDLING**

- 19.1 Complaints from the public or any third parties relating to the discharge of the Function and the delivery of the Services shall be handled in accordance with the Host Authority's corporate complaints procedure or such joint procedure that may be adopted where the complaints function of the Authorities falls within this Agreement. Where the Recipient Authority receives a complaint that falls within this Clause 19.1, then the Recipient Authority shall forward the complaint to the Host Authority for resolution.
- 19.2 All such complaints and how they have been resolved shall be notified to the Recipient Authority following receipt and resolution by the Host Authority where the complaint concerns the discharge of the Function or the delivery of the Service for the Recipient Authority. The Recipient Authority and Host Authority shall cooperate in the resolution of all complaints that are received in respect of the discharge of the relevant Function and the delivery of the relevant Services where the complaint concerns discharge and delivery for the Recipient Authority. The Host Authority shall have regard to any comments raised by the Recipient Authority on a complaint falling within this Clause 19.2 prior to determining the resolution.
- 19.3 Complaints relating to the discharge of the Function and the delivery of the Services from Officers or Members of the Authority receiving the complaint shall be reported to and investigated by the [Joint Officer Board / Joint Executive Committee] or such other Officer as is considered appropriate by the Host Authority or as agreed with the Officer or Member.
- 19.4 The Authorities shall co-operate fully with each other in responding to any legal proceedings or enquiries in the course of investigations carried out by the Local Government and Social Care Ombudsman the Information Commissioner, any police, law enforcement or regulatory body or any other regulator relevant statutory body or statutory officer which shall include the Monitoring Officers (including Member standards complaints) and s151 Officers of the Authorities.

## **20 CONFIDENTIAL INFORMATION AND PUBLICITY**

- 20.1 The Authorities shall at all times use their reasonable endeavours to keep confidential (and to procure that their respective employees agents consultants and sub-contractors shall keep confidential) all Confidential Information concerning the Functions and Services or the business and affairs of the other Authority which may now or at any time hereafter be in its possession and shall subject to Clause 22 not disclose it except with the consent of the other Authority, such consent not to be unreasonably withheld.

- 20.2 For the purpose of this Agreement “**Confidential Information**” means any information imparted to any Authority or their employees agents consultants or sub-contractors (“**the Receiving Authority**”) which was imparted to the Receiving Authority on the basis that it is to be kept confidential or would by its nature normally be regarded as being confidential or which to the knowledge of the Receiving Authority was obtained by another Authority on the basis that it was to be kept confidential or is of commercial value in relation to the Functions and Services but shall not include any information which is for the time being in the public domain otherwise than by reason of its wrongful disclosure by the Receiving Authority.
- 20.3 This Clause shall continue without limit of time and shall survive the termination of this Agreement.
- 20.4 This Clause shall not prevent the disclosure of any Confidential Information relating to the Functions and Services which is reasonably disclosed for the furtherance of the Functions and Services or the promotion of the Functions and Services provided that the Authority or person disclosing the information takes all steps that are commercially practicable to preserve the confidentiality of the information and shall not prevent the disclosure of any Confidential Information where required by Law.
- 20.5 An Authority shall not issue any press or other media release publicity concerning or affecting the Functions and Services unless previously agreed in advance with the other Authority.
- 20.6 Subject to this Clause any formal statements or communications to Officers and/or Members concerning the Functions and Services shall be agreed between the Authorities in advance.
- 20.7 This Clause does not apply to the circulation of minutes, the routine reporting of decisions or requests for information or action to be taken where both Authorities shall comply with the relevant access to information legislation applicable to local authorities.

## 21 COMPLIANCE WITH LAWS

- 21.1 The Authorities shall at all times comply with all Laws including but not limited to the Data Protection Legislation and will, where appropriate maintain a valid and up to date registration or notification under such Laws.
- 21.2 Each Authority shall indemnify and keep indemnified the other Authorities against all Losses incurred by the other Authorities in respect of any breach of this Clause by an Authority and/or any act or omission of any sub-contractor.

## 22 FREEDOM OF INFORMATION

- 22.1 Each Authority acknowledges that the other Authority is subject to the requirements of the FOIA and the EIR and each Authority shall where reasonable assist and co-operate with the other Authority (at their own expense) to enable the other Authority to comply with these information disclosure obligations.
- 22.2 Where an Authority receives a request for information under either the FOIA or the EIR in relation to information which it is holding on behalf of the other Authority in relation to the Functions and Services, it shall:
- 22.2.1 transfer the request for information to the other Authority as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
  - 22.2.2 provide the other Authority with a copy of all information in its possession or power in the form that the Authority requires within ten Working Days (or such longer period as the Authority may specify) of the Authority requesting that information; and
  - 22.2.3 provide all necessary assistance as reasonably requested by the other Authority to enable that Authority to respond to a request for information within the time for compliance set out in the FOIA or the EIR.

22.3 Where an Authority receives a request under FOIA or EIR which relates to the Functions and Services, it shall notify the other Authorities and afford them an opportunity to make any comments or representations in respect of the disclosure of the information sought. The other Authorities shall respond within 5 Working Days of receipt of this notification. The Authority responding to the request shall take into account any such comments or representations in so doing and shall not respond to the request until the 5 Working Day response period referred to above has passed.

## 23 DATA PROTECTION

23.1 The Authorities shall comply with their obligations under the Data Protection Legislation as they relate to their respective activities under this Agreement.

23.2 The Authorities agree that where and to the extent their relationship in respect of either the Functions and Services or a Hosted Contract in respect of Personal Data as detailed (as applicable) in the Service Strategy or the Hosted Contract Schedule is that of:

23.2.1 data controller and data processor then the provisions of Part A of Schedule 6 shall apply subject to the requirements set out in (as applicable) the Service Strategy or the Hosted Contract Schedule;

23.2.2 independent data controllers then the provisions of Part B of Schedule 6 shall apply subject to the requirements set out in (as applicable) the Service Strategy or the Hosted Contract Schedule; and/or

23.2.3 joint data controllers then the provisions of Part C of Schedule 6 shall apply subject to the requirements set out in (as applicable) the Service Strategy or the Hosted Contract Schedule.

23.3 Notwithstanding Clause 23.2, any further or specific arrangements relating to the management of Personal Data set out or referred to in the Service Strategy or Hosted Contract Schedule (as applicable) shall apply.

23.4 The Host Authority shall procure that the Provider complies with the provisions of the Hosted Contract relating to data protection as detailed in the Hosted Contract Schedule.

## 24 CONFLICTS

24.1 If any situation arises where there is a potential or actual conflict of interest or a perceived conflict of interest between the Authorities, they shall:

24.1.1 Draw such conflict to the notice of the Monitoring Officer with responsibility for the Authority concerned and the Monitoring Officer with responsibility for the other Authority in writing;

24.1.2 Remove themselves from all aspects of the decision-making process in relation to the situation;

24.1.3 Provide the Monitoring Officers with such resources as they require to ensure that the interests of each Authority are appropriately represented including taking independent professional advice or seeking independent third Authority support if appropriate.

24.2 On receipt of notice under Clause 24.1 each Monitoring Officer shall immediately:

24.2.1 represent only the interests of the Authority for which they have responsibility to the best of his or her ability;

24.2.2 notify the Section 151 officer of the circumstances of the conflict;

24.2.3 ensure that officers instructed to provide them with support are clearly informed that a conflict between the two (or more) Authorities exists and are notified to which Authority the Monitoring Officer is reporting; and

24.2.4 ensure that officers are not or might not be compromised in any way in performing their duties on behalf of any of the Authorities;

24.3 If it becomes apparent to a Monitoring Officer acting on receipt of a notice under this Clause that the interests of the Authority for which he or she has responsibility or the position of any officer supporting him or her will or might be compromised the Monitoring Officer shall immediately make arrangements for independent professional advice or independent third Authority support.

24.4 The Authorities shall ensure that procedures and safeguards are in place to identify such conflicts at an early stage.

24.5 The Authorities shall keep a written record of any such conflicts which have been identified and how such conflicts have been resolved.

## 25 RESOLUTION OF BREACHES AND DISPUTES

25.1 At any time an Authority (“the **First Authority**”) may serve on other Authority (“the **Second Authority**”) a “**Default Notice**”, alleging that that Authority has failed to comply with its obligations under this Agreement, setting out any suggested remedial action and any damage which the First Authority has or is likely to suffer as a result of the alleged failure.

25.2 An Authority in receipt of a Default Notice shall have 14 days within which to serve on the First Authority a “**Counter-Notice**”, setting out in respect of every matter contained in the Default Notice proposals for the remediation of the alleged failure and making good any loss which the First Authority may have suffered or may suffer as a result of the failure or the reasons why that alleged failure is disputed.

25.3 Within 14 days of receipt of a Counter-Notice, the First Authority shall send to the Second Authority a “**Notice of Acceptance**” of any proposals contained in the Counter-Notice in so far as those proposals are accepted by the First Authority, and may send a “**Notice of Dispute**” in so far as no proposal satisfactory to the First Authority is contained in the Counter-Notice, setting out in respect of each proposal which is not accepted by the First Authority why it is considered to be unacceptable.

25.4 Where any proposal in a Counter-Notice is accepted in a Notice of Acceptance, the Second Authority shall implement that proposal.

25.5 Where any matter is contained in a Notice of Dispute or where any other dispute arises between the Authorities, it shall fall to be dealt with as follows:

25.5.1 An Officer from each Authority responsible for the relevant Function and Service shall consider the matter and seek to resolve the same informally.

25.5.2 In the event that resolution is not possible by the Officers in Clause 25.5.1, then the matter shall be placed on the agenda for the next meeting of the Joint Officer Board, such meeting to be held within four weeks of the failure to resolve the dispute or breach by the Officers in Clause 25.5.1, an additional meeting being called if necessary to meet that timescale. The Joint Officer Board shall then consider the matter and make a recommendation as to what action, if any, should be taken.

25.5.3 Should the Authorities fail to agree and resolve the breach or dispute within 14 days of the Joint Officer Board’s recommendation, an Authority may by Notice to the Monitoring Officer(s) refer the matter to the Joint Executive Committee, where the matter shall be placed on the agenda for the next meeting or at an extraordinary meeting held for that purpose. The Joint Executive Committee shall then consider the matter and make a determination as to what action, if any, should be taken.

25.5.4 Should the referral to the Joint Executive Committee fail to lead to a resolution, either Authority may refer the matter to mediation, including in relation to any matters falling within the remit of section 103 (expenses of joint committees) of the Local Government Act 1972.

25.5.5 Where a referral to mediation is made then this will be in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the Authorities within ten (10) Working Days of the referral to mediation, the mediator will be nominated by CEDR.

25.5.6 The commencement of a mediation will not prevent the Authorities commencing or continuing court proceedings. Neither Authority shall be preventing from commencing protective proceedings at any time.

25.6 Nothing in this Agreement shall prejudice the operation of section 103 (expenses of joint committees) of the Local Government Act 1972.

## **26 TERMINATION AND CONSEQUENCES**

26.1 This Agreement may be terminated:

26.1.1 by either Authority giving to the other not less than twenty four (24) months' notice in writing; or

26.1.2 by mutual agreement in writing by the Authorities on such terms as are recorded in that agreement including as to the timing of termination.

26.2 The inclusion of any of the Functions and Services within this Agreement:

26.2.1 shall terminate on any specific date for disaggregation stated in the Service Strategy unless otherwise agreed between the Authorities; or

26.2.2 may be terminated:

(a) by either Authority giving to the other not less than the period of notice in writing stated in the relevant Service Strategy or in the absence of any such period twelve (12) months' notice in writing; or

(b) by mutual agreement in writing by the Authorities on such terms as are recorded in that agreement including as to the timing of termination.

26.3 At least twelve months prior to (or in the case of only disaggregation of a Function and Service such period as is stated in the Service Strategy):

26.3.1 termination of this Agreement (in whole or in part); or

26.3.2 any Function and Service ceasing to form part of this Agreement termination (in whole or in part) including any date for disaggregation:

the Authorities shall develop an exit plan or otherwise review any exit plan contained within a Service Strategy so that each Authority will be able to meet its continuing obligations to discharge the Functions and deliver the Services and co-operate in implementing the agreed arrangements, including but not limited to:

26.3.3 co-operation in the sharing of information concerning Officers, consultation and entering arrangements for the transfer of their employment as may be agreed between the Authorities as a part of the exit plan (including the application of TUPE, pension and other contractual arrangements);

- 26.3.4 co-operation in any requirement for terminating, modifying, restructuring, assigning or novating contractual arrangements entered into for mutual advantage and properly and timeously execute any documents necessary to effect such arrangements;
  - 26.3.5 arranging for the transfer or return of property and Assets, including intellectual property and data belonging to the other Authority;
  - 26.3.6 agreeing how any ICT facilities shall be divided between the Authorities so that each Authority will have the facilities necessary to meet its obligations to discharge the Function and co-operate in implementing the agreed arrangements.
  - 26.3.7 ensuring all rights and liabilities which vested before the termination of this Agreement shall remain so vested as if this Agreement continued.
- 26.4 Each Authority shall confirm in writing and produce such evidence as is reasonable to prove compliance with their obligations under this Clause.
- 26.5 Upon termination of this Agreement or, if earlier, a Function or Service ceasing to be part of this Agreement:
- 26.5.1 the obligations of each Authority in respect of the furtherance of the relevant Functions and Services as a shared enterprise on behalf of one another shall cease unless otherwise expressly agreed between the Authorities;
  - 26.5.2 the Agreement shall continue in force in respect of any financial liabilities which have arisen out of the performance of this Agreement up to the date of termination;
  - 26.5.3 the Disputes Procedure set out in Clause 25 of this Agreement shall remain in force in respect of any of the matters arising from the performance of or withdrawal of an Authority under this Agreement.
  - 26.5.1 the Authorities agree that they will work together and co-operate to ensure that the winding down and disaggregation of the integrated and joint activities to the separate responsibilities of the Authorities is carried out:
    - (a) smoothly and with as little disruption as possible to service users, employees, the Authorities and third parties, so as to minimise costs and liabilities of each Authority in doing so; and
    - (b) in accordance with the agreed exit plan.
- 26.6 Termination of this Agreement shall have no effect on the liability of any rights or remedies of either Authority already accrued, prior to the date upon which such termination takes effect.
- 26.7 On termination of this Agreement the following provisions shall continue in full force and effect together with any other provision of this Agreement expressly stating that it continues beyond termination: Clause 9 (Integration of Staff), Clause 11 (Limitation of Liabilities and Indemnities), Clause 12 (Member and Officer Liability), Clause 13 (Premises), Clause 14 (Assets), Clause 18 (Intellectual Property and Branding), Clause 20 (Confidential Information and Publicity), Clause 21 (Compliance with Laws), Clause 22 (Freedom of Information), Clause 23 (Data Protection), Clause 25 (Resolution of Breaches and Disputes), Clause 28 (Severance), Clause 29 (Entire Agreement), Clause 31 (General), Clause 33 (Governing Law and Jurisdiction), Clause 34 (Notices). Schedule 5 (TUPE/Pensions and Employment Provisions), Schedule 6 (Data Protection Terms).

## 27 VARIATION

- 27.1 The Authorities may vary the terms of this Agreement by mutual agreement with such variations recorded in writing, signed and appended to this Agreement.



27.2 Proposal for variation can be recommended by the Joint Executive Committee.

## **28 SEVERANCE**

28.1 If any condition, provision or Clause of this Agreement shall become or shall be declared by any court of competent jurisdiction to be void, invalid, illegal or unenforceable in any way, such invalidity or unenforceability shall in no way impair or affect any other provision all of which shall remain in full force and effect.

## **29 ENTIRE AGREEMENT**

29.1 This Agreement constitutes the entire agreement and understanding of the Authorities and supersedes any previous agreement between the Authorities relating to the subject matter of this Agreement.

## **30 WAIVER**

30.1 The failure to exercise or delay in exercising a right or remedy provided by this Agreement or by Law does not constitute a waiver of the right or remedy or a waiver of other rights or remedies.

30.2 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement does not constitute a waiver of any other breach or default and shall not affect the other terms of this Agreement.

30.3 A waiver of a breach of any of the terms of this Agreement or of a default under this Agreement will not prevent an Authority from subsequently requiring compliance with the waived obligation.

## **31 GENERAL**

31.1 Nothing contained or implied herein shall prejudice or affect the Authorities' rights and powers duties and obligations in the exercise of their functions as local authorities and/or in any other capacity and all rights powers discretions duties and obligations of the Authorities under all Laws may at all times be fully and effectually exercised as if the Authorities were not Authority to this Agreement and as if this Agreement had not been made.

31.2 The Authorities shall only represent themselves as being an agent partner or employee of any other authority to the extent specified by this Agreement and shall not hold themselves out as such nor as having any power or Authority to incur any obligation of any nature express or implied on behalf of any other Authority except to the extent specified in this Agreement.

31.3 This Agreement is personal to the Authorities and no Authority shall assign transfer or purport to assign or transfer to any other persons any of its rights or sub-contract any of its obligations under this Agreement without the consent of the other Authority or in the case of sub-contracting where the sub-contracting is pursuant to the agreed Service Strategy and the relevant costs are within the agreed budget.

31.4 No person other than the Authorities shall be entitled to enforce any of its terms under the Contracts (Rights of Third Authorities) Act 1999.

31.5 The Authorities shall at all times in the conduct of the Functions and Services under this Agreement deal with one another and their respective rights and responsibilities in good faith including in respect of any disputes between them.

31.6 If there is an Emergency, the Authorities shall cooperate and provide each other with any assistance as may reasonably be required to respond to that Emergency.

## **32 COUNTERPARTS**

This Agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Agreement, but all the counterparts shall together constitute the same Agreement.

### 33 GOVERNING LAW AND JURISDICTION

- 33.1 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.
- 33.2 Each Authority irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

### 34 NOTICES

- 34.1 Any notice to be given by either Authority under this Agreement shall be given to the persons set out below:
- 34.1.1 in the case of a notice to Cumberland Council it shall be addressed to the Monitoring Officer at [monitoring.officer@cumberland.gov.uk](mailto:monitoring.officer@cumberland.gov.uk) or Cumbria House, 117 Botchergate, Carlisle CA1 1RD (as may be amended by notice from time to time); or
- 34.1.2 in the case of a notice to Westmorland and Furness Council it shall be addressed to the Chief Executive at [monitoring.officer@westmorlandandfurness.gov.uk](mailto:monitoring.officer@westmorlandandfurness.gov.uk) or South Lakeland House, Lowther Street, Kendal LA9 4DQ (as may be amended by notice from time to time).
- 34.2 Any notice given to an Authority under or in connection with this Agreement shall be in writing marked for the attention of the person specified in this Clause 34 and shall be:
- 34.2.1 delivered by hand or by pre-paid first-class post or other next Working Day delivery service at the address specified in this Clause 34 (as amended); or
- 34.2.2 sent by email to the address specified in this Clause 34 (as amended).
- 34.3 Any notice shall be deemed to have been received:
- 34.3.1 if delivered by hand, at the time the notice is left at the proper address;
- 34.3.2 if sent by pre-paid first-class post or other next Working Day delivery service, at 9.00 am on the second Working Day after posting; or
- 34.3.3 if sent by email, at the time of transmission, or if this time falls outside working hours in the place of receipt, when working hours resume provided always that the Authority giving notice has received both a transmission (delivery) receipt and a read receipt. In this Clause 34.3.3, working hours means 9.00am to 5.00pm Monday to Friday on a Working Day.
- 34.4 This Clause does not apply to the service of any proceedings or other documents in any legal action.

**IN WITNESS WHEREOF** the Authorities have executed and delivered this Agreement as a deed on the date inserted at the beginning of this Agreement.

EXECUTED AS A DEED by the parties on the date which first appears in this Agreement

EXECUTED (but not delivered until the date hereof)  
AS A DEED by affixing the COMMON SEAL of  
CUMBERLAND COUNCIL in the presence of:-

.....  
Authorised Signatory

EXECUTED (but not delivered until the date hereof)  
AS A DEED by affixing the COMMON SEAL of  
WESTMORLAND AND FURNESS COUNCIL in the presence of:-

.....  
Authorised Signatory

**SCHEDULE 1 – FUNCTIONS AND SERVICES**

**Part A – List of Functions and Services**

<b>Function/Service</b>	<b>Host Authority</b>
<b>AB Assurance / Economic Programme</b>	Westmorland and Furness
<b>Active Cumbria</b>	Cumberland
<b>Active Travel</b>	Cumberland
<b>Adoption</b>	Cumberland
<b>Adult Learning</b>	Westmorland and Furness
<b>Adults Urgent Care Team</b>	Cumberland
<b>Archives</b>	Cumberland
<b>Children Placement Team</b>	Westmorland and Furness
<b>Children’s Fostering</b>	Cumberland
<b>Childrens Emergency Duty Team</b>	Westmorland and Furness
<b>County Resilience / Emergency Planning</b>	Westmorland and Furness
<b>Customer Experience/Digital/Website</b>	Westmorland and Furness
<b>Customer Service</b>	Westmorland and Furness
<b>Connecting Cumbria</b>	Cumberland
<b>Finance - System</b>	Cumberland
<b>HR</b>	Both
<b>ICT</b>	Cumberland
<b>Insurance Services</b>	Westmorland and Furness
<b>Libraries – public</b>	Cumberland
<b>Partnership and Improvement (Children's)</b>	Cumberland
<b>People - schools finance</b>	Westmorland and Furness
<b>Purchase to pay</b>	Cumberland
<b>Records Management</b>	Cumberland
<b>Refugees resettlement Programme</b>	Cumberland
<b>Registrations</b>	Cumberland
<b>Residential and Edge of Care Homes</b>	Cumberland
<b>School library</b>	Cumberland
<b>School Organisation and Admissions</b>	Westmorland and Furness
<b>Education IPC Team</b>	Cumberland

**Part B – Service Strategies**

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**SCHEDULE 2 – TERMS OF REFERENCE OF JOINT EXECUTIVE COMMITTEE**

**Terms of Reference of the Joint Executive Committee**

**1. Purpose**

The Joint Executive Committee's role is to oversee the management of those functions and services which are provided on a Cumbria-wide basis on behalf of the Cumberland and Westmorland and Furness Authorities to ensure effective delivery of such services and to provide strategic direction

**2. Terms of Reference**

Pursuant to Section 101(5) of the Local Government Act 1972, and to their powers under section 9EB of the Local Government Act 2000 and Local Authorities (Arrangements for the Discharge of Functions) (England) Regulations 2012, the Authorities' Executives have charged the Joint Executive Committee with responsibility for the exercise of:

- 2.1 Developing and approving the Service Strategies for each of the shared Functions and Services as may be agreed under the inter-authority agreement (**IAA**) dated [ ] 2023.
- 2.2 Ensuring that Service Strategies and the resources and budgets required to deliver the Service Strategies are in place.
- 2.3 Agreeing the responsibilities of each Authority to deliver the Service Strategies, including any specific responsibilities of the Host Authority and that the responsibilities are documented within the Service Strategies.
- 2.4 Ensuring that the services are provided within the policy and budget set by the Authorities.
- 2.5 Ensuring that the arrangements ensure that each Authority's statutory responsibilities are met.
- 2.6 Overseeing the implementation of the Service Strategies, including reviewing the performance of the services against budget and indicators for service quality, performance and efficiency, and initiating additional action where appropriate.
- 2.7 Ensuring that clear operational policies are in place and that these are complied with.
- 2.8 Agreeing the basis for apportioning cost between the two Authorities and the amount to be apportioned.
- 2.1 Ensuring that effective risk management arrangements are in place, that the Functions and Services are subject to adequate and independent audit and that any audit recommendations are acted upon.
- 2.2 Approving business cases for proposed changes and overseeing the progress of subsequent work.
- 2.3 Ensuring that there are robust plans for the disaggregation of services as and when required and that there is a smooth transition to separate or new arrangements.
- 2.4 Resolving issues that are referred to the Joint Executive Committee by the Joint Officer Board or relevant Chief Officers of the Service.
- 2.5 Delegating functions of the Joint Executive Committee to officers of either Authority under s.101 Local Government Act 1972.
- 2.6 Agreeing arrangements to place staff employed by one of the authorities at the disposal of the other authority to carry out the functions of the Joint Executive Committee as described above under s.113 Local Government Act 1972.

- 2.7 Take decisions in relation to the commissioning and procurement of services either hosted or under a lead authority arrangement from a third party.
- 2.8 Responding to reports or recommendations from the Joint Overview and Scrutiny Committee or one or both of the Authorities.
- 2.9 Providing an Annual Report to each of the two Authorities on the performance, finances and proposed service improvements including any arrangements for disaggregation.
- 2.10 To exercise the functions set out above clause 6.13 of the inter authority agreement in relation to the management of waste disposal services and ancillary contracts entered into between the Authorities dated [31 March] 2023.
- 2.11 To exercise the functions set out above in respect of any other such form of inter authority agreement as may be otherwise or subsequently agreed.

### 3. **Constitution of the Joint Executive Committee**

- 3.1 Each Authority shall appoint four Members (being executive (cabinet) members) as its nominated members of the Joint Executive Committee. The Members appointed will have full voting rights.
- 3.2 Each Authority may nominate one or more substitute Members to attend any meeting in place of an appointed Member (who shall also be executive members) subject to notification being given to the Monitoring Officer via the relevant Democratic Services before the start of the meeting. The Member appointed as a substitute shall have full voting rights.
- 3.3 Each member of the Joint Executive Committee shall comply with the Code of Conduct of their Authority when acting as a member of the Joint Executive Committee.
- 3.4 Each member of the Joint Executive Committee shall serve on the Joint Executive Committee for as long as they are appointed to the Joint Executive Committee by the relevant Authority but a Member shall cease to be a member of the Joint Executive Committee if they cease to be a member of the Executive appointing them or if the relevant Authority removes them from the Joint Executive Committee.
- 3.5 Meetings of the Joint Executive Committee shall be carried out on a rotational basis in alternate Authority areas.
- 3.6 The Authority hosting the first meeting shall appoint one of its nominated members as Chair and that member shall remain Chair until the first meeting taking place after the elapse of [**one year**] from the time of their appointment unless they cease to be a member of the Joint Executive Committee. On the expiry of the first Chair's term of office as Chair, the Authority which did not appoint the first Chair shall appoint one of its nominated members as Chair for a period of one year from the time of their appointment. The same procedure shall be followed for the appointment of the Chair in subsequent years. [The Chair shall not have a second or casting vote]
- 3.7 The Authority not appointing the Chair of the Joint Executive Committee in any year shall appoint one of its nominated members as Vice Chair.
- 3.8 Proposed key decisions of the Joint Executive Committee will be published on the Forward Plan for each Authority in accordance with their own Access to Information Rules.
- 3.9 Meetings will be governed by the Executive Procedure Rules and the Access to Information Rules for each Authority, including public speaking and questions, and where they might differ will be those of the Authority of the Chair unless otherwise agreed between the Monitoring Officers of the two Authorities as to which of the two sets of Rules will be applied. There shall be no second or casting vote that may be made by the Chair. Where the Joint Executive

Committee is unable to achieve a majority decision then the matter shall be adjourned to the next ordinary or extraordinary meeting of the Joint Executive Committee. Where at that second meeting the Joint Executive Committee is unable to reach a majority decision then the matter shall be referred to mediation and subsequent steps in accordance with Clause 25 of the IAA referred to in paragraph 2.1 above.

- 3.10 The Joint Executive Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Executive Committee. Cancellation of meetings shall be agreed by the Joint Executive Committee or both Leaders.
- 3.11 The Authority providing the Chair shall also provide the host arrangements for Democratic Services and for the Monitoring Officer to act as proper officer to the Joint Executive Committee.
- 3.12 Additional meetings can be called by the relevant Monitoring Officer by providing at least five clear days' notice to members of the Joint Executive Committee, for the purposes of resolving urgent matters arising between the bi-monthly meetings. Additional meetings may be called if either Leader requests it.
- 3.13 The relevant Democratic Services will send out the agenda, record minutes and arrange for the sign off of minutes in accordance with the procedure rules for the relevant Authority.
- 3.14 A meeting of the Joint Executive Committee will require a quorum of at least two members from each Authority.

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**SCHEDULE 3 – JOINT OVERVIEW AND SCRUTINY COMMITTEE**

**1. Purpose**

The Authorities have established a Joint Overview and Scrutiny Committee to provide oversight support and to scrutinise the work of the Joint Executive Committee for the oversight and management of the shared Functions and Services, including the development and delivery Service Strategies and, where applicable, the implementation of disaggregation plans.

**2. Terms of reference**

The Joint Overview and Scrutiny Committee is established under s101(5) and s 102 Local Government Act 1972 and to conduct the Authorities’ functions under sections 9F and 9FA of the Local Government Act 2000 in respect of:

- 2.1 those functions exercised by the Joint Executive Committee
- 2.2 the shared Functions and Services for which the Joint Executive Committee is responsible
- 2.3 those decisions taken by the Joint Executive Committee, including those as delegated to an officer and those prospective decisions set out on the Forward Plan of decisions published in respect of the Joint Executive Committee
- 2.4 the ‘call-in’ function relating to these responsibilities, which shall be in the place of those call-in functions that might otherwise be exercised by the individual Authorities

**3. Approach**

- 3.1 In fulfilling these functions the Joint Overview and Scrutiny Committee will seek to:
  - 3.1.1 Develop a forward work programme of activities
  - 3.1.2 Review or scrutinise decisions made, or other action taken by the Joint Executive Committee
  - 3.1.3 Seek reassurance and consider whether the Functions and Services are operating in accordance with the Service Strategies, including the budgets and any implementation plans for disaggregation and continuing service provision
  - 3.1.4 Identification of barriers to progress, best practice and possible improvements.
  - 3.1.5 Holding the Joint Executive Committee to account by providing critical challenge to ensure that it provides the high-level strategic direction for the implementation of the Service Strategies.

**4. Constitution**

- 4.1 Each Authority shall appoint six Members (being non-executive members) on a politically proportionate basis as its nominated members of the Joint Overview and Scrutiny Committee. The Members appointed will have full voting rights. The Committee may co-opt non-voting members to assist it in its functions.
- 4.2 Each Authority may nominate one or more substitute Members to attend any meeting in place of an appointed Member (who shall also be non-executive members) subject to notification being given to the Monitoring Officer via the relevant Democratic Services before the start of the meeting. The Member appointed as a substitute shall have full voting rights.

- 4.3 Each member of the Joint Overview and Scrutiny Committee shall comply with the Code of Conduct of their Authority when acting as a member of the Joint Overview and Scrutiny Committee.
- 4.4 Each member of the Joint Overview and Scrutiny Committee shall serve on the Committee for as long as they are appointed to the Joint Overview and Scrutiny Committee by the relevant Authority.
- 4.5 Meetings of the Joint Overview and Scrutiny Committee shall be carried out on a rotational basis in alternate Authority areas.
- 4.6 A meeting of the Joint Overview and Scrutiny Committee will require a quorum of at least two members from each Authority.
- 4.7 The Chair shall be appointed by the Authority other than the Authority providing the Chair of the Joint Executive Committee from amongst those Members appointed by it (such appointment to be by the relevant Authority's full council). The term of office and rotation of the Authority from which the Chair is appointed will rotate in synchronisation with the rotation and appointment of the Chair of the Joint Executive Committee.
- 4.8 The Vice-Chair shall be appointed by Authority who has not appointed the Chair from amongst those Members appointed by it (such appointment to be by the relevant Authority's full council)..
- 4.9 Meetings will be governed by the Access to Information Rules for each Authority, including public speaking and questions, and where they might differ will be those of the Authority of the Chair unless otherwise agreed between the Monitoring Officers of the two Authorities as to which of the two sets of Rules will be applied.
- 4.10 The Joint Overview and Scrutiny Committee shall normally meet once every two months (bi-monthly) unless otherwise determined by the Joint Overview and Scrutiny Committee.
- 4.11 The Authority providing the Chair shall also provide the host arrangements for Democratic Services and for the Monitoring Officer to act as proper officer to the Joint Overview and Scrutiny Committee. The relevant Democratic Services will send out the agenda, record minutes and arrange for the sign off of minutes in accordance with the procedure rules for the relevant Authority.
- 4.12 The scrutiny officer function shall be a shared function between the Authorities but which shall, where required, be led by the scrutiny officer of the Authority providing the Chair.
- 4.13 The **Call-In** mechanism will be affected by a request of any **[3,6 or 10]** members of either Authority sent to the Monitoring Officer of either Authority and containing details of the decision requested to be subject to call-in and the reasoning why. The process will then otherwise follow the call-in criteria, procedure and meeting requirements in respect of any subsequent meeting to be held of the Joint Overview and Scrutiny Committee in accordance with the Authorities' Overview and Scrutiny Procedure Rules. Where the Procedure Rules might differ, those applied will be the Overview and Scrutiny Procedure Rules of the Authority of the Chair unless otherwise agreed between the Monitoring Officers.

**SCHEDULE 4– JOINT OFFICER BOARD**

**1. Purpose**

- 1.1 The Joint Officer Board's role is to support the Joint Executive Committee, together with the Joint Overview and Scrutiny Committee, in overseeing the discharge of the shared Functions and Services, helping ensure the effective delivery of such service and helping to provide strategic direction
- 1.2 In doing so the Joint Officer Board will act as the primary focal point for all matters relating to discharge of the Functions and Services, including any related proposals for establishment, variation or disaggregation, as may be provided in pursuance of arrangements made between the Authorities under sections 101, 102 and 113 of the Local Government Act 1972.

**2. Terms of Reference**

- 2.1 In fulfilling its purpose the responsibilities of the Joint Officer Board will include:
  - 2.1.1 Considering proposed Service Strategies or variations to Service Strategies, including budgets, service business plans, business cases and other key documents relating to the delivery of the shared Functions and Services
  - 2.1.2 Monitoring the performance and financial position of the services and reporting accordingly to the Joint Executive Committee
  - 2.1.3 Reviewing the end of year outturn report for the Functions and Services, including the cost sharing proposals
  - 2.1.4 Making recommendations, providing advice and referring matters for decision to the Joint Executive Committee in a timely and efficient manner,
  - 2.1.5 Reporting to and supporting the functions of the Joint Overview and Scrutiny Committee in relation to the Functions and Services and related proposals
  - 2.1.6 Ensuring effective link and liaison with the relevant chief officers across the two Authorities
  - 2.1.6 Considering issues referred to the Joint Officer Board, including making a determination in respect of any disputes or differences that might arise between the Authorities, in accordance with the Agreement, and escalate any disputes to the Joint Executive Committee as may be appropriate.
  - 2.1.7 Confirming the appointment of Heads of Service for the Committee in relation to the Functions and Services and dealing with other HR related work referred to the Joint Officer Board.
  - 2.1.8 Ensuring consistent and effective communications in both Authorities on all matters relating to the Functions and Services and related proposals.
  - 2.1.10 Supporting, assisting and advising the Joint Executive Committee and the Authorities in developing the strategy and plans for the longer term vision for the discharge of the shared Functions and Services including beyond the arrangements provided for in the Agreement.
  - 2.1.11 Promoting the Functions and Services across the two Authorities and in the external environment.

**3. Constitution**

- 3.1 Core membership will include the Chief Executive, Section 151 Officer and Monitoring Officer (the governance chief officers) of each Authority, together with such other Officers as the Chief Executives between them shall agree to invite.
- 3.2 The chief officer members of the Joint Officer Board may nominate a deputy to act in their place.
- 3.3 The quorum shall be two of three governance chief officers of each Authority or their nominees.
- 3.4 The decision maker shall be the chief executive or their nominee in respect of a decision to be made by each Authority. Wherever possible those decisions will be made in agreement and in concert between the two chief executives or nominees.
- 3.5 The decision maker in relation to a decision to be made under delegated authority in relation to a shared Function or Service, pursuant to s.101 arrangements under the Agreement, shall be the relevant head of service or the officer acting under express delegation from the Joint Executive Committee.
- 3.6 The Chair of the Joint Officer Board shall be the Chief Executive of the Authority providing the Chair of the Joint Executive Committee. The Vice-Chair shall be the Chief Executive of the Authority providing the Vice-Chair of the Joint Executive Committee. In their absence the Joint Officer Board shall appoint a person from its number to preside for the duration of the meeting.

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**SCHEDULE 5 –TUPE/EMPLOYMENT AND PENSIONS PROVISIONS**

**Definitions relevant to Schedule 5:**

**Employees** means all employees of the Authorities discharging the Function and/or delivering the Services.

**Host Authority** means the host Authority for the Function and/or the Services.

**Recipient Authority** means the Authority receiving the Function and/or the Services from the Host Authority.

**Termination Employees** means the Employees who it is determined in accordance with the procedure set out in Schedule 5 will transfer to the Host Authority on the Termination Date.

**TUPE Regulations** means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

**1 No TUPE Transfer on Commencement Date**

1.1 The Authorities acknowledge and agree that as at the Commencement Date, the discharge of a Function and/or the delivery of a Service through this Agreement by the Host Authority from the Commencement Date shall not constitute a relevant transfer for the purposes of the TUPE Regulations and accordingly no employees of either Authority are expected to transfer to the other under the TUPE Regulations on the Commencement Date.

**2 Termination**

2.1 In the event of the termination of this Agreement in accordance with Clause 26 the Authorities agree to give effect to the exit plan referred to in Clause 26.3 to enable the termination of the Agreement to take effect as soon as reasonably possible.

2.2 Without prejudice to the exit plan referred to in Clause 26.3 and to the provisions of Clause 26 more generally the Host Authority shall:

2.2.1 provide the Recipient Authority with all relevant information and support relating to the Function and Services which the Recipient Authority reasonably requires to enable them to discharge the Function and deliver the Services from the date of termination;

2.2.2 deliver to the Recipient Authority no later than seven days after termination any data held by the Host Authority relates to the discharge of the Function and the delivery of the Services for or by the Recipient Authority.

2.3 The Authorities acknowledge that it is their intention that on the cessation of the discharge of any Function and/or the cessation of the delivery of any of the Services by the Host Authority (the “**Termination Date**”) and the commencement of any discharge of any functions and delivery of the services which are the same or similar to the Function and Services (or any part of them) by the Recipient Authority shall with respect to each of the Termination Employees be treated as a relevant transfer for the purposes of the TUPE Regulations.

2.4 Without prejudice to the TUPE Regulations the Host Authority shall when requested by the Recipient Authority any time within the twelve month period prior to the expiry of this Agreement, or if at any time any Authority serves notice to terminate the provision by the Host Authority of any Function and/or Services provide in respect of the Employees:

2.4.1 full and accurate details regarding their identity, age, sex, length of service, job title, grade and terms and conditions of employment;

- 2.4.2 current, pending and threatened claims, disputes, trade disputes and industrial action by any Employee or their representative and circumstances known to the Host / Lead Authority which make such a claim, dispute or industrial action possible;
- 2.4.3 and any other information which the Recipient Authority may reasonably request.
- 2.5 The Host Authority shall provide the information referred to above at paragraph 2.4 of this Schedule 5 as soon as reasonably practicable after receipt of the said written notice and at no cost to the Recipient Authority and notify the Recipient Authority forthwith in writing of any material changes to such information as soon as reasonably practicable as and when such changes arise.
- 2.6 The Authorities will in good faith and following consultation with the Employees of the Host Authority and any appropriate representatives within the meaning of the TUPE Regulations attempt to agree which of the Employees will be deemed to transfer to the Recipient Authority in accordance with paragraph 2.3 of this Schedule 5 in accordance with the applicable provisions in the Staff Allocations Framework, developed and agreed as part of the LGR Programme (the “**Staff allocations Framework**”) who shall be, for the purposes of this Agreement, the “**Termination Employees**”, with the remainder of such Employees remaining with the Host Authority. If the Authorities have not agreed the identity of the Termination Employees and to which of the Authorities each of the Termination Employees will transfer (“the **Agreed New Employer**”) at least three months prior to the Termination Date, then the Authorities will resolve the matter [in accordance with the dispute resolution procedure set out in Clause 25].
- 2.7 If TUPE does not apply on the Termination Date, the Agreed New Employer shall offer employment to the Termination Employees on the same terms and conditions as applied immediately before the Termination Date (save in relation to any change which would otherwise be in accordance with regulation 4(5) of TUPE) including full continuity of employment.
- 2.8 The Host Authority shall indemnify the Recipient Authority from and against each and every cost, claim, liability, expense or demand which is properly and reasonably incurred by the Recipient Authority in connection with and as a result of any action or omission by the Host Authority up to and including the Termination Date in connection with any matter relating to or arising out of:
- 2.8.1 arising from the Host Authority’s breach of its obligations under paragraph 2.4;
- 2.8.2 the employment or termination of employment of any Termination Employee by the Host Authority up to and including the Termination Date;
- 2.8.3 anything done or omitted to be done by or on behalf of the Host Authority in respect of any Termination Employee up to and including the Termination Date which is deemed to have been done or omitted to be done by or on behalf of the Recipient Authority in accordance with the TUPE Regulations;
- 2.8.4 any failure by the Host Authority to pay any of the Termination Employees any remuneration due or provide any benefits in respect of the period prior to the Termination Date;
- 2.8.5 any claim by or on behalf of all or any of the Termination Employees arising out of any failure by the Host Authority to comply with its legal obligations in relation to information and consultation pursuant to regulations 13 and 14 of the TUPE Regulations save insofar as any such failure results from any failure by the Recipient Authority to comply with its obligations pursuant to regulation 13 (4) of the TUPE Regulations.
- 2.9 The Host Authority shall indemnify the Recipient Authority from and against all claims, liabilities, costs, demands (including all reasonable expenses associated therewith) made within twelve months of the Termination Date by or in relation to each and every Employee or former Employee of the Host Authority who is not a Termination Employee and who was prior to the Termination Date employed by the Host Authority in the discharge of the Function and the delivery of the Services in respect of whom it is alleged their employment or any liabilities have transferred to the Recipient Authority pursuant to the TUPE Regulations being any claim, liability, cost and demand arising out of:

- 2.9.1 the employment or termination of employment of such a person up to and including the Termination Date; or
- 2.9.2 the employment or any termination of employment of such a person after the Termination Date (excluding claims for discrimination by the Recipient Authority) by the Host Authority; or
- 2.9.3 any claim by or on behalf of any such person arising out of any failure to comply with regulations 13 and 14 of the TUPE Regulations.

PROVIDED THAT in the event of any such claim being made, the Recipient Authority shall forthwith notify the Host Authority and no agreement or settlement shall be reached or entered into by the Recipient Authority without the prior written consent of the Host Authority such consent not to be unreasonably withheld or delayed.

- 2.10 The Recipient Authority shall indemnify the Host Authority from and against each and every cost, claim, liability, expense or demand which is properly and reasonably incurred by the Host Authority in connection with or as the result of any act or omission by the Recipient Authority after the Termination Date in connection with any matter relating to:
  - 2.10.1 the employment or termination of employment of any Termination Employee by the Recipient Authority after the Termination Date;
  - 2.10.2 any claim by or on behalf of all or any of the Termination Employees that the transfer involves or would involve a substantial change in working conditions to the material detriment of such a person;
  - 2.10.3 any claim by or on behalf of all or any of the Termination Employees arising out of the Recipient Authority's failure to comply with its legal obligations in relation to information and consultation pursuant to regulations 13(4).
- 2.11 On the Termination Date, the Authorities shall co-operate to manage the pension aspects of any onward transfer of any Termination Employees to the Recipient Authority.
- 2.12 The Host Authority shall promptly provide to the Local Government Pension Scheme and to the Recipient Authority such documents and information as may reasonably be required in advance of the Termination Date and shall fully co-operate with the reasonable requests of the Local Government Pension Scheme and the Recipient Authority relating to any administrative tasks necessary to deal with the pension rights of and aspects of any onward transfer of any Termination Employees on the Termination Date.

### **3 Employment Matters to be referred to Joint Officer Board**

- 3.1 If following the Commencement Date and up to and including the Termination Date in relation to any Function or Services which are the subject of this Agreement:
  - 3.1.1 a redundancy or reorganisation process is proposed;
  - 3.1.2 material changes to the terms and conditions of employment of more than **[number]** of the Employees at any one time are proposed; or
  - 3.1.3 there are material concerns with regard to the performance of any group of Employees;

the matter shall be referred to the Joint Officer Board for consultation with a view to reaching agreement.

## SCHEDULE 6 – DATA PROTECTION TERMS

### 1 Additional Definitions

1.1 In addition to the definitions contained at Clause **Error! Reference source not found.** of the Agreement, the following terms shall have the following meaning in this Schedule 6:

**Controller, Data Subject, Personal Data Breach, Processing** (including **Process, Processes** and **Processed**) and **Processor**: shall have the meaning as set out in the Data Protection Legislation;

**Data Subject Communication**: means any communication, inquiry, request or complaint from a Data Subject relating to the Processing of Joint Controller Data;

**Joint Controller**: means one or more Controllers who jointly determine the purposes and means of Processing of Personal Data;

**Joint Controller Data**: means the Personal Data as detailed in any Service Strategy or Hosted Contract Schedule where and to the extent that the Authorities' relationship in respect of the Processing of such Personal Data has been identified as that of Joint Controllers;

**Joint Controller Purposes**: means the purposes for Processing Joint Controller Data as detailed in any relevant Service Strategy or Hosted Contract Schedule;

**Regulatory Communication**: means any communication, inquiry, request or complaint from a data protection supervisory authority or other public authority relating to the Processing of Joint Controller Data;

**Sub-Processor**: means any third party appointed to Process Personal Data on behalf of the Processor related to the Functions and Services or a Hosted Contract.

1.2 The provisions of this Schedule 6 shall apply during the continuance of the Agreement and indefinitely after its expiry or termination.



**2 Part A – Controller and Processor Relationship Terms**

- 2.1 With respect to the Authorities' rights and obligations under the Agreement, the Authorities agree that where and to the extent their relationship in respect of either the Functions and Services or a Hosted Contract in respect of Personal Data as detailed in the Service Strategy or the Hosted Contract Schedule (as applicable) is that of Controller and Processor, the Recipient Authority is the Controller and the Host Authority is the Processor and the provisions set out in this Part A of Schedule 6 shall apply. For the avoidance of doubt, the provisions of this Part A shall apply to the exclusion of Parts B and C of this Schedule 6.
- 2.2 The Recipient Authority shall not disclose any Personal Data to the Host Authority save where it is lawful and in a form which is lawful.
- 2.3 The Recipient Authority shall notify the Host Authority immediately if it considers that any of the Recipient Authority's instructions infringe the Data Protection Legislation.
- 2.4 The subject-matter and duration of the Processing, nature and purpose of the Processing, types of Personal Data, and categories of Data Subjects are set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule.
- 2.5 The Recipient Authority may make reasonable amendments to this Part A of Schedule 6 by written notice to the Host Authority from time to time as the Recipient Authority considers necessary to meet the requirements of the Data Protection Legislation.
- 2.6 The Host Authority agrees to only Process the Personal Data in accordance with the terms and conditions set out in the Agreement and, subject to the overriding requirements of Data Protection Legislation, undertakes to:
- 2.6.1 only process Personal Data on the written instructions of the Recipient Authority, including those written instructions set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule, unless Processing is required by applicable Laws to which the Host Authority is subject, in which case the Host Authority shall, inform the Recipient Authority of that legal requirement before Processing unless such applicable Laws prohibit it on important grounds of public interest;
  - 2.6.2 ensure that any Host Authority staff with access to Personal Data are subject to a duty of confidentiality (whether contractual or statutory) and ensure that access is strictly limited to those individuals who need to know/access the Personal Data;
  - 2.6.3 implement appropriate technical and organisational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the UK GDPR, taking into account the state of the art, the costs of implementation and the nature, scope, context and purposes of Processing as well as the risk of varying likelihood and severity for the rights and freedoms of natural persons;
  - 2.6.4 only engage Sub-Processors with the prior written consent of the Recipient Authority;
  - 2.6.5 only engage Sub-Processors, including any pre-approved Sub-Processors set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule, under a written contract, imposing equivalent data protection obligations as set out in Part A of this Schedule 6, remaining liable to the Recipient Authority for compliance of any Sub-Processor engaged and informing the Recipient Authority of any changes concerning the addition or replacement of Sub-Processors giving the Recipient Authority sufficient opportunity to object to such changes within a reasonable timeframe;
  - 2.6.6 assist the Recipient Authority by applying appropriate technical and organisational measures, insofar as possible, for the fulfilment of the Recipient Authority's obligations to respond to requests for exercising the Data Subject's rights laid down in the Data Protection Legislation;

- 2.6.7 notify the Recipient Authority within five (5) Working Days if it receives a request from a Data Subject under the Data Protection Legislation in respect of the Personal Data and not respond to any such request without the written authorisation of the Recipient Authority or as required by the Data Protection Legislation to which the Host Authority is subject but only after informing the Recipient Authority of such legal requirement before responding to the request;
- 2.6.8 notify the Recipient Authority without undue delay, and at least within forty eight (48) hours, upon becoming aware of a Personal Data Breach, providing the Recipient Authority with sufficient information to allow it to meet its obligations under the Data Protection Legislation and assisting the Recipient Authority, as directed, in the investigation, mitigation and remediation of such Personal Data Breach;
- 2.6.9 assist the Recipient Authority in ensuring compliance with the obligations pursuant to the Data Protection Legislation taking into account the nature of the Processing for the purposes of the Functions and Services or the Hosted Contract Schedule and the information available to the Authority, including but not limited to those obligations relating to:
- (a) security of processing;
  - (b) notification of a Personal Data Breach to the Commissioner;
  - (c) communication of a Personal Data Breach to the Data Subject; and
  - (d) Data Protection impact assessments and any subsequent consultations with the Commissioner;
- 2.6.10 on the expiry or termination of the Agreement, promptly upon request from the Recipient Authority (at the Recipient Authority's discretion) either:
- (a) return all Personal Data to the Recipient Authority and delete all existing copies, or procure such deletion; or
  - (b) securely destroy such Personal Data, unless an applicable Law requires storage of the Personal Data but only to the extent and for such period as required by such Law;
- 2.6.11 notify the Recipient Authority of the deletion of Personal Data in accordance with paragraph 2.6.10 of this Schedule 6 within twenty one (21) days of the expiry or termination of the Agreement;
- 2.6.12 not transfer Personal Data outside the UK without the prior written consent of the Recipient Authority and ensuring that any such transfers are subject to appropriate safeguards as set out within the Data Protection Legislation including the completion of a data transfer impact assessment where so required;
- 2.6.13 make available to the Recipient Authority on request all information necessary to demonstrate compliance with the Data Protection Legislation, and allow for and contribute to audits, including inspections, by the Recipient Authority or an auditor mandated by the Recipient Authority including to permit the Recipient Authority or its external advisers (subject to reasonable and appropriate confidentiality undertakings) to inspect and audit the Host Authority's data processing activities and those of its agents, subsidiaries and sub-contractors and comply with all reasonable requests or directions by the Recipient Authority to enable the Recipient Authority to verify and procure that the Host Authority is in full compliance with its obligations under this Paragraph 2 of Schedule 6.

**3 Part B – Independent Controller Terms**

- 3.1 With respect to the Authorities' rights and obligations under the Agreement, the Authorities agree that where and to the extent their relationship in respect of either the Functions and Services or a Hosted Contract in respect of Personal Data as detailed in the Service Strategy or the Hosted Contract Schedule (as applicable) is identified as that of separate and independent Controllers the provisions set out in this Part B of Schedule 6 shall apply. For the avoidance of doubt, the provisions of this Part B shall apply to the exclusion of Parts A and C of this Schedule 6.
- 3.2 Each Authority shall Process the Personal Data in compliance with the Data Protection Legislation and all applicable Laws, enactments, regulations, orders, standards, guidance, and other similar instruments that apply to its Personal Data Processing operations, and shall not put the other Authority in breach of the Data Protection Legislation.
- 3.3 Each Authority shall ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, any shared Personal Data.
- 3.4 Each Authority shall Process the Personal Data in compliance with the Data Protection Legislation and all applicable Laws, enactments, regulations, orders, standards, guidance, and other similar instruments that apply to its Personal Data Processing operations, and shall not put the other Authority in breach of the Data Protection Legislation.
- 3.5 The Authorities acknowledge that they will disclose to each other the Personal Data described in the Annex to the relevant Service Strategies or the Hosted Contract Schedules in which the Authorities have been identified as independent Controllers. The subject-matter and duration of the Processing, nature and purpose of the Processing, types of Personal Data, and categories of Data Subjects are set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule.
- 3.6 On the expiry or termination of the Agreement, or when the period for the duration of the processing as set out in the Service Strategy or Hosted Contract Schedule has expired, whichever is the later, the Authorities shall either delete any shared Personal Data or retain such Personal Data in line with its own retention schedules or in accordance with any applicable laws.
- 3.7 The Personal Data shared between the Authorities as independent Controllers will be carried out on the following lawful bases under the UK GDPR:
- 3.7.1 Personal Data:
- (a) Article 6(1)(c) UK GDPR processing is necessary for compliance with a legal obligation;
  - (b) Article 6(1)(d) UK GDPR processing is necessary in order to protect the vital interests of the Data Subject or others; or
  - (c) Article 6(1)(e) UK GDPR processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority.
- 3.7.2 Special Categories of Personal Data:
- (a) Article 9(2)(b) UK GDPR processing is necessary for obligations relating to employment, social security and social protection;
  - (b) Article 9(2)(c) UK GDPR processing is necessary in order to protect the vital interests of the Data Subject or others;

- (c) Article 9(2)(f) UK GDPR processing is necessary for the establishment, exercise or defence of legal claims;
- (d) Article 9(2)(g) UK GDPR processing is necessary for reasons of substantial public interest;
- (e) Article 9(2)(j) UK GDPR processing is necessary for archiving, scientific or historical research purposes; or
- (f) Article 10 UK GDPR processing is carried out under official authority or is authorised by law (in relation to Personal Data relating to criminal convictions and offences).

- 3.8 Where required, additional conditions of processing may apply pursuant to Schedule 1 of the Data Protection Act 2018 depending on the legal basis for processing under the UK GDPR. The Authorities shall ensure that an appropriate condition for processing is identified for each processing activity where required under the Data Protection Legislation.
- 3.9 Each Authority shall promptly (and without undue delay) notify the other Authority in writing of any Personal Data Breach or breach of the Data Protection Legislation of which it becomes aware relating to the Personal Data which the Authorities are Processing as independent Controllers, to the extent that such Personal Data Breach or breach of the Data Protection Legislation is likely to affect the other Authority.
- 3.10 In the event of any Personal Data Breach each party shall:
- 3.10.1 do all such things as reasonably necessary to assist the other Authority in mitigating the effects of the Data Breach;
  - 3.10.2 implement any measures necessary to restore the security of any compromised personal Data;
  - 3.10.3 work with the other Authority to make any required notifications to the Commissioner and affected Data Subjects in accordance with the Data Protection Legislation (including the timeframes set out therein);
  - 3.10.4 not do anything which may damage the reputation of the other Authority or that Authority's relationship with the relevant Data Subjects, save as required by applicable laws.
- 3.11 In the event of a dispute or claim brought by a Data Subject or the Commissioner concerning the Processing of Personal Data undertaken by the Authorities as independent Controllers in connection with the Agreement against one or more of the Authorities, the Authorities will inform each other about any such disputes or claims and will cooperate with a view to settling them amicably in a timely fashion.
- 3.12 The Authorities agree to provide reasonable assistance as is necessary to each other to enable them to comply with the application of Data Subjects' rights in relation to the Personal Data that the Authorities are Processing as independent Controllers in connection with the Agreement, including the right of subject access, as provided to Data Subjects under the Data Protection Legislation.
- 3.13 The Authorities agree not to transfer Personal Data to the other Authority to the extent that such Data may be processed outside of the UK, unless the prior written authorisation of the disclosing Authority is granted prior to any such transfer and appropriate safeguards have been entered into to protect the transfer as set out within the Data Protection Legislation including the completion of a data transfer impact assessment where so required.

**4 Part C – Joint Controller Terms**

- 4.1 With respect to the Authorities' rights and obligations under the Agreement, the Authorities agree that where and to the extent their relationship in respect of either the Functions and Services or a Hosted Contract in respect of Personal Data as detailed (as applicable) in the Service Strategy or the Hosted Contract Schedule is that of Joint Controllers, the Authorities act together in determining the purpose and manner of the Processing of such Personal Data and the provisions set out in this Part C of Schedule 6 shall apply. For the avoidance of doubt, the provisions of this Part C shall apply to the exclusion of Parts A and B of this Schedule 6.
- 4.2 Each Authority shall comply with Data Protection Legislation in processing Joint Controller Data.
- 4.3 Each Authority shall do all things reasonably necessary to assist the other in complying with its obligations under Data Protection Legislation in respect of the Processing of Joint Controller Data.
- 4.4 Each Authority shall Process Joint Controller Data in accordance with, and for the Joint Controller Purposes, provided that nothing in this Agreement shall restrict an Authority's use of Joint Controller Data which was in that Authority's possession prior to the date of this Agreement.
- 4.5 The Joint Controller Data will be processed by the Authorities on the following lawful bases under the UK GDPR:
- 4.5.1 Personal Data:
- (a) Article 6(1)(c) UK GDPR processing is necessary for compliance with a legal obligation;
  - (b) Article 6(1)(d) UK GDPR processing is necessary in order to protect the vital interests of the Data Subject or others; or
  - (c) Article 6(1)(e) UK GDPR processing is necessary for the performance of a task carried out in the public interest or in the exercise of official authority.
- 4.5.2 Special Categories of Personal Data:
- (a) Article 9(2)(b) UK GDPR processing is necessary for obligations relating to employment, social security and social protection;
  - (b) Article 9(2)(c) UK GDPR processing is necessary in order to protect the vital interests of the Data Subject or others;
  - (c) Article 9(2)(f) UK GDPR processing is necessary for the establishment, exercise or defence of legal claims;
  - (d) Article 9(2)(g) UK GDPR processing is necessary for reasons of substantial public interest;
  - (e) Article 9(2)(j) UK GDPR processing is necessary for archiving, scientific or historical research purposes; or
  - (f) Article 10 UK GDPR processing is carried out under official authority or is authorised by law (in relation to Personal Data relating to criminal convictions and offences).
- 4.6 Where required, additional conditions of processing may apply pursuant to Schedule 1 of the Data Protection Act 2018 depending on the legal basis for processing under the UK GDPR. The Authorities shall ensure that an appropriate condition for processing is identified for each processing activity where required under the Data Protection Legislation.

- 4.7 On the expiry or termination of the Agreement, or when the period for the duration of the processing as set out in the Service Strategy or Hosted Contract Schedule has expired, whichever is the later, the Authorities shall either delete any shared Personal Data or retain such Personal Data in line with its own retention schedules or in accordance with any applicable laws.
- 4.8 Unless otherwise agreed between the Authorities, the Host Authority shall be solely responsible for providing Data Subjects with the information required under Data Protection Legislation and, in particular, under Articles 13 and 14 of the UK GDPR in relation to the Processing of Joint Controller Data described in the relevant Service Strategy or Hosted Contract Schedule. The subject-matter and duration of the Processing, nature and purpose of the Processing, types of Personal Data, and categories of Data Subjects are set out in the Annex to the relevant Service Strategy or the Hosted Contract Schedule.
- 4.9 The Privacy Notice shall explain the allocation of responsibilities between the Authorities, and unless otherwise agreed between the Authorities, shall designate the Host Authority as a single point of contact for Data Subject Communications.
- 4.10 The Authority responsible for providing Data Subjects with the information set out in Paragraph 4.6 of Schedule 6, shall in a timely fashion, be provided by the other Authority with any information required to enable compliance with the obligation under paragraph 4.5 and in particular to identify the lawful basis of the Processing of Joint Controller Data.
- 4.11 If either Authority receives a Data Subject Communication it shall notify the other Authority promptly of the Data Subject Communication. Unless otherwise agreed between the Authorities in respect of a particular Data Subject Communication, the Authority which first received the Data Subject Communication (**Responsible Authority**) shall be responsible for responding to and resolving Data Subject Communications and shall:
- 4.11.1 provide the other Authority with a reasonable opportunity to comment on and contribute to any response before it is sent; and
  - 4.11.2 keep the other Authority informed as to the status of the resolution of the Data Subject Communication and provide all such information to the other Authority as the other Authority may reasonably request in respect of this.
- 4.12 The other Authority shall provide the Responsible Authority in a timely fashion with any information required to enable the Responsible Authority to respond to and resolve a Data Subject Communication.
- 4.13 Where the Data Subject Communication requires action or information relating to Joint Controller Data held by the other Authority, the other Authority shall provide such assistance as is reasonably required by the Responsible Authority in a timely fashion.
- 4.14 If either Authority becomes aware that Joint Controller Data which it has received from or shared with the other Authority is inaccurate or incomplete, it shall promptly notify the other Authority.
- 4.15 If either Authority receives a Regulatory Communication it shall:
- 4.15.1 notify the other Authority promptly of the Regulatory Communication;
  - 4.15.2 respond to and resolve the Regulatory Communication and shall provide the other Authority with a reasonable opportunity to comment on and contribute to any response before it is sent; and
  - 4.15.3 keep the other Authority informed as to the status of the resolution of the Regulatory Communication and provide all such information to the other Authority as may be reasonably requested.

- 4.16 If either Authority suffers a Personal Data Breach affecting Joint Controller Data received from the other Authority it shall promptly notify the other Authority and take reasonable steps to mitigate the effects of and remediate the Personal Data Breach. Each Authority:
- 4.16.1 shall be individually responsible for complying with data breach notification obligations under Data Protection Legislation for Joint Controller Data within its operational control;
  - 4.16.2 shall provide the other Authority with such other assistance as it may need in order to make any required notifications to the relevant data protection supervisory authority or regulator and/or equivalent relevant regulator and affected Data Subjects; and
  - 4.16.3 co-operate with the other Authority to take any further actions reasonably necessary to resolve the issue in accordance with the Data Protection Legislation
- 4.17 The Authorities confirm and agree that any Personal Data processed in accordance with this Part C of this Schedule 6 shall only be processed in the UK. To the extent that any Personal Data shall be processed outside of the UK, the Authorities shall confirm and agree in writing that such processing is compliant with the Data Protection Legislation and that appropriate safeguards are in place prior to any such transfer being made including the completion of a data transfer impact assessment where so required.

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**SCHEDULE 7 – HOSTED CONTRACT SCHEDULES**

**Part A – Hosted Contracts**

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Title (as it appears on the contract)	Current Supplier (as it appears on the contract)	Contract Start Date	Contract End Date	Contract Extension Available	Contract extension period	LGR Contract Type (Contract, Framework etc.)	New Council
0 - 19 Healthy Child Programme Services	North Cumbria Integrated Care NHS Foundation Trust		31/03/2023	Yes	2 x 12 Months	Contract	Hosted in Cumberland
Adult Education Observation of Teaching and Learning Software			06/10/2021	No		Contract	Hosted in Cumberland
Agreement for Road Weather Forecasting & Prediction Services	Met Desk Ltd	01/10/2019	31/803/2024	Yes	2 x 12 month extensions available (1x 6 months used & 1x 12 months used)	Contract	Hosted in Cumberland
All Age Oral Health Improvement Service	North Cumbria Integrated Care NHS Foundation Trust	01/01/2020	31/03/2023	Yes	12 month extension available	Contract	Hosted in Cumberland
Booking system for the Council's pool cars	Co-Wheels Car Club Community Interest Company		31/08/2023	Yes	Optional 1 year extension to 31/08/2023	Contract	Hosted in Cumberland

Calm Software	Axiell Calm Ltd		31/03/2024	No		Contract	Hosted in Cumberland
Capital Grant Agreement relating to the procurement of Wholesale Broadband Services dated 30th July 2013 between the Secretary of State for Digital, Culture, Media and Sport ("DCMS") and Cumbria County Council	Department of Digital, Culture, Media and Sport		30/07/2013	01/02/2021	N/A	Contract	Hosted in Cumberland
Capital Grant Agreement relating to the procurement of Wholesale Broadband Services dated June 2015 between the Secretary of State for Digital, Culture, Media and Sport ("DCMS") and Cumbria County Council	Department of Digital, Culture, Media and Sport		01/06/2015	01/02/2021	N/A	Contract	Hosted in Cumberland
CFRS Satellite subscription	Prime Tech	31/3/22	31/3/23	No		Contract	Hosted in Cumberland
Children's Homes Manual	Tri.x (Signis Limited)	01/03/2022	28/02/2023	Annual	12 months rolling	Contract	Hosted in Cumberland
Closed Landfill Monitoring and Maintenance Contract	Enitial	01/04/2020	31/03/2024	Yes	1x 24 month used	Contract	Hosted in Cumberland
Connecting Cumbria BT	British Telecom Plc		01/11/2012	01/03/2024	N/A	Contract	Hosted in Cumberland
CONTRACT FOR THE PROVISION OF DEPLOYED SERVICES (Connecting Cumbria Phase 1)	British Telecom Plc		01/06/2015	01/03/2025	N/A	Contract	Hosted in Cumberland

Corporate Telephony Support	Southern Communications		30/11/2023	No		Contract	Hosted in Cumberland
Cumbria Compost Volunteer Scheme	Garden Organic	01/04/2022	31/03/2024	No	Nil	Contract	Hosted in Cumberland
CWM Leachate	CWM		No fixed dates	Yes	Rolling agreement	Contract	Hosted in Cumberland
Dental Epidemiology Fieldwork	North Cumbria Integrated Care NHS Foundation Trust	09/01/2020	31/08/2023	No		Contract	Hosted in Cumberland
Duty Sheet CFRS Volunteers C3 (Now Access UK Ltd)	Dutysheet Ltd		03/01/2023	No	Nil	Contract	Hosted in Cumberland
Framework Agreement for The Provision of Extra Care Housing and Supported Living Accommodation in Cumbria	Creative Support Ltd Eden Housing Association Ltd Eric Wright Group Limited The Fair oak Housing Association HB Village Developments Limited Home Group Limited Housing & Care 21 Impact Housing Association Limited Keepmoat Regeneration Limited South Lakes Housing	02/01/2017	31/05/2023	Yes	2 years	Framework	Hosted in Cumberland

Framework Agreement for the Supply of Care Equipment for Daily Living	Age UK West Cumbria Alston Pharmacy Limited Cumbria Mobility Ltd Joseph Cowper Limited Robson Medical and Mobility Ltd	05/10/2022	09/05/2024	Yes	2 x 12 months	Framework	Hosted in Cumberland
Framework for Provision of Older Adults Residential & Nursing Care Services	Various - 151 Providers	Various dates	13/05/2024	No	2x12 months; both used	Framework	Hosted in Cumberland
GCloud 11 call off contract (version 4) [Insurance ClaimControl Software 4 year contract]	AlphaTec Software	01/07/2020	31/06/2023	Yes	2 x 12months (1 Used)	Contract	Hosted in Cumberland
Highways Fleet Vehicle Replacement Framework 2021-2025	James A Cutherbertson Ltd Scot JCB Ltd Guest Motors Ltd T/A Guest Truck and Van, North East Truck and Van Ltd Lloyd Ltd Aprite (GB) Ltd t/as West Way Nissan, Ford Retail Ltd T/A Trust Ford, Renault UK Ltd Toyota GB PLC	01/05/2021	30/04/2025	No	Nil	Framework	Hosted in Cumberland
Highways Fleet Vehicle Replacement Framework 2021-2025	James A Cutherbertson Ltd Scot JCB Ltd Guest Motors Ltd T/A Guest Truck and Van, North East Truck and Van Ltd Lloyd Ltd Aprite (GB) Ltd t/as West Way Nissan,	01/05/2021	30/04/2025	No	Nil	Framework	Hosted in Cumberland

	Ford Retail Ltd T/A Trust Ford, Renault UK Ltd Toyota GB PLC						
Highways Fleet Vehicle Replacement Framework 2021-2025	James A Cutherbertson Ltd Scot JCB Ltd Guest Motors Ltd T/A Guest Truck and Van, North East Truck and Van Ltd Lloyd Ltd Aprite (GB) Ltd t/as West Way Nissan, Ford Retail Ltd T/A Trust Ford, Renault UK Ltd Toyota GB PLC	01/05/2021	30/04/2025	No	Nil	Framework	Hosted in Cumberland
Highways Waste Disposal	<ul style="list-style-type: none"> <li>• Cumbria Waste Management Ltd</li> <li>• Metcalfe Plant Hire Ltd</li> <li>• Neil Price Ltd</li> <li>• Sinkfall Recycling Ltd</li> <li>• SUEZ Recycling and Recovery UK Ltd</li> <li>• W G Mackay Ltd</li> </ul>	01/06/2021	31/05/2025	No	Nil	Framework	Hosted in Cumberland
HP Server Support & Maint			30/11/2021	No		Contract	Hosted in Cumberland
ICam Service Contract	ICam Archive Systems Limited	01/10/2022	30/09/2023			Contract	Hosted in Cumberland
ICT Homeworking Equipment Supply	CCS Media		20/06/2022	no No	Nil	Contract	Hosted in Cumberland

IT Service Management Tool	Fruition Partners		07/06/2023	No	Nil	Contract	Hosted in Cumberland
Kendal Fell Transfer Station Contract	Suez Recycling and Recovery Ltd	01/04/2019	31/03/2024	No	24 months taken up in 2022	Contract	Hosted in Cumberland
Kiwi Syslog Server, Kiwi Log Viewer, Virtualisation Mgr VW200, NW Config Mgr DL500	Unipress		20/09/2023	No		Contract	Hosted in Cumberland
Local Data Online Insights Platform	Local Data Online		27/03/2025			Contract	Hosted in Cumberland
Managed Services for Temporary Agency Resources	Randstad Solutions Limited	03/12/2020	28/02/2024	Yes	1 x 12 months used 1 x 12 months used	Contract	Hosted in Cumberland
Materials for Highways Purposes within the County of Cumbria [Raw materials]	<ul style="list-style-type: none"> <li>o Aggregate Industries Ltd</li> <li>o Breedon Southern Ltd</li> <li>o Hanson Quarry Products Europe Ltd TA</li> <li>o Hanson Contracting</li> <li>o James A Jobling &amp; Co Ltd, trading as Jobling Purser</li> <li>o Tarmac Trading Ltd</li> <li>o Tendley Quarries Ltd</li> <li>o D A Harrison</li> <li>o Burlington Aggregates Ltd</li> <li>o Alistair Brown</li> <li>o Instamac Group</li> <li>o Metcalfe Plant Hire Ltd</li> </ul>	01/07/2021	07/08/2024	No		Framework	Hosted in Cumberland

	<ul style="list-style-type: none"> <li>o Pennington Quarries Ltd</li> <li>o Colas Ltd</li> <li>o Meon Ltd</li> <li>o Redstag Materials</li> <li>o Tarmac Building Products</li> </ul>						
Mortuary and Pathology Services - North	NCIC		31/03/2023	Rolling contract	This contract is procured a different way and is covered by a Veat Notice	Contract	Hosted in Cumberland
Mortuary and Pathology Services - South	University Hospitals of Morecambe Bay NHS Foundation Trust		28/02/2023	Rolling contract	This contract is procured a different way and is covered by a Veat Notice	Contract	Hosted in Cumberland
Nightstop Emergency Accommodation service for young people aged 16-24 years (YOUNG PEOPLE)	DePaul UK		31/03/2024	yes	up to 24 months	Contract	Hosted in Cumberland
Open Framework Agreement for the provision of Homecare Services	various	30/08/2019	31/03/2024	No		Framework	Hosted in Cumberland
PayOut Now - Post office cash payments for refugees and vulnerable people	Allpay	13/07/2022	12/07/2023	No	N/A	Contract	Hosted in Cumberland
PDF Creation/Editing Software	Tracker Software		24/10/2023	No	Nil	Contract	Hosted in Cumberland

Property Decorating and Furnishing Packages	Landlord Furniture Packages Uk Ltd	01/07/2021	30/06/2023	No	N/A	Contract	Hosted in Cumberland
Property Maintenance Minor Work	AFM Gas Services Ltd Bay Building Services Ltd Bell Decorating Group BK Builders Ltd Colin Briscoe Construction Ltd CPL Heating and Plumbing Ltd Cubby Construction DLP Services (Northern) Ltd Ductclean (UK) Ltd EE Thompson & Son Ltd em1 Ltd Emchia Asbestos Solutions Enviraz (Scotland) Ltd J&J ELECTRICAL(CUMBRIA)LTD Jennings Roofing Limited LAR Ltd M & J Group (Construction & Roofing) Ltd MDS Ltd Michael Thompson Limited Mitie Property Services (UK) Ltd - Painting Morris & Spottiswood Novus Property		31/08/2023	Yes	2 x 12 months - 1 x 12 months taken	Framework	Hosted in Cumberland



	Solutions Limited PK Engineering Postlethwaite Construction Ltd PPM Ltd Rhodar Ltd Roland Hill Ltd Seddon Construction Ltd Stobbarts Ltd Top Notch Contractors Ltd Trident Maintenance Services Ltd						
ProSolution Sup & Maintenance	Advanced Business Software and Solutions Ltd	09/01/20 22	31/08/23			Contract	Hosted in Cumberla nd
Removal of Dead Bodies on behalf of H M Coroner	Hudsons, Little & Cain, Paul Johnston, Sheldons, Walkers		31/08/20 23	No	2 x 12 month extensions (2 used)	Contract	Hosted in Cumberla nd
RM3808 Network Services II [CFRS - SOAP/XML Gateway iBooking Gateway Annual Service/Hosting]	PageOne Communications Ltd	08/01/20 21	31/07/20 23	No		Contract	Hosted in Cumberla nd
Safeguarding Children's Partnership Board Services Procedures Manual	Tri.x (Signis Limited)	26/08/20 21	28/08/20 23	Annual	12 months rolling	Contract	Hosted in Cumberla nd
SD-WAN hardware plus 5 year maintenance and support	British Telecommunications Plc	30/09/22	10/01/20 27	No		Contract	Hosted in Cumberla nd

Specialised Services in Care Homes			10/10/2024	Yes	2 x 12 months	Framework	Hosted in Cumberland	
Supply of Various Foods	PFD (Carlisle) Ltd		01/08/2022	31/07/2026	No	Framework	Hosted in Cumberland	
Traffic Management within the County of Cumbria [Temporary Traffic Management Services]	<ul style="list-style-type: none"> <li>• Go Traffic Management</li> <li>• Premier Traffic Management</li> <li>• Roadsafe Traffic Management</li> <li>• Sunbelt Rentals Ltd</li> </ul>		01/12/2021	30/11/2025	No	Nil	Framework	Hosted in Cumberland
Traffic Signals Maintenance	Telent Technology Services Limited		01/04/2019	31/03/2023	Yes	3 x 12 months (1 used)	Contract	Hosted in Cumberland
Trauma Recovery and Enhanced Case Management	Northumberland, Tyne and Wear NHS Foundation Trust		01/06/2019	31/03/2020	Annual	Annual rolling	Contract	Hosted in Cumberland
Trend Micro End User Agreement [Trend Portal Protect with DLP for Share-Point (28 months)]	Softcat Ltd		22/04/22	21/04/2023	No	Nil	Contract	Hosted in Cumberland
Valeting and vehicle safety checks for the Council's pool cars	Co-Wheels Car Club Community Interest Company			31/08/2023	Used	Optional 1 year extension to 31/08/2023	Contract	Hosted in Cumberland
VSDM Annuity - Device Manage [included in Corporate Mobile Phone Contract]	Vodafone		30/09/2020	03/11/2023	No	Nil	Contract	Hosted in Cumberland

Waste Project Agreement	Renewi Cumbria Ltd		01/06/2034	Yes	up to 5 years	Contract	Hosted in Cumberland
Youth Sector Infrastructure Support	Cumbria Youth Alliance	01/01/2020	30/06/2023	Yes	1 x 12 months	Contract	Hosted in Cumberland
Cumbria Local Government Reorganisation Support	KPMG	28/01/2022	30/09/2022	No		Contract	Hosted in Cumberland
Advocacy Services Lot 1 Independent Mental Capacity Act (IMCA); Healthwatch; Care Act Advocacy; NHS Complaints	People First Independent Advocacy		31/05/2023	Yes	2 x 12 months 1 12 month used	Contract	Hosted in Westmorland and Furness
Advocacy Services Lot 2 Independent Mental Health Advocacy	N-COMPASS - TOWARDS A BRIGHTER FUTURE		31/05/2023	Yes	2 x 12 months 1 x 12 month used	Contract	Hosted in Westmorland and Furness
Banking Services	Royal Bank of Scotland PLC	04/01/2018	30/09/2023	No		Contract	Hosted in Westmorland and Furness
Biodiversity Net Gain Support for the two new Local Authority Unitary Councils	Ricardo-AEA Ltd	01/02/2023	30/06/2023	No		Contract	Hosted in Westmorland and Furness
Careers, Information, Advice and Guidance (CIAG)	Inspira	04/01/2015	31/03/2023	No	To be extended to Sep 2023	Contract	Hosted in Westmorland and Furness
Carer's Addiction Support Service	The Well Communities CIC	01/07/2021	30/11/2025	Yes	1 x 12 months	Contract	Hosted in Westmorland and Furness

CEMAR Contract Management Software Contract	Think Project UK Ltd	11/11/2019	11/10/2023	Yes	2 x 12 month extension (both used)	Contract	Hosted in Westmorland and Furness
Changing Futures Lived Experience Network	The Well Communities CIC	23/05/2022	31/03/2024	No	12 months used	Contract	Hosted in Westmorland and Furness
Contract Management	Proactis - Due North Ltd		31/07/2023	No		Contract	Hosted in Westmorland and Furness
Cumbria Telecare and Assistive Technology Service	DORO Care (UK) Limited	07/01/2022	30/06/2025	Yes	2 x 12 months	Contract	Hosted in Westmorland and Furness
Data Entry to Traveline National Database (TNDS)	Telephone Information Masters		12/05/2022	No	None	Contract	Hosted in Westmorland and Furness
E-Procurement Systems	Proactis - Due North Ltd	01/08/2015	31/07/2023	No	4 x 12 months taken	Contract	Hosted in Westmorland and Furness
Family Autism Support	Carlisle Mencap		31/01/2025	Yes	2 x 12 months	Contract	Hosted in Westmorland and Furness
For the Procurement of Capital Highway and Property Works within the County of Cumbria (Capital Works Framework)	A E Yates Ltd BDB Special Projects Ltd Bethell Group Plc Cubby Construction Ltd DSD Construction Ltd Eric Wright Civil Engineering Ltd Eric Wright Construction	01/02/2020	31/01/2024	No		Framework	Hosted in Westmorland and Furness

	Ltd Esh Construction Ltd Jacobs Field Services Ltd JN Bentley Ltd Lambert-Gill Ltd Leck Construction Ltd Metcalfe Plant Hire Ltd Michael Thompson (Public Works Contractors and Engineers) Ltd Morris & Spottiswood Ltd F Parkinson Ltd R Developments Ltd Roland Hill (Parsonby) Ltd Stobbarts Ltd Story Contracting Limited Thomas Armstrong (Construction) Ltd Top Notch Contractors Ltd							
For the Supply of Operated Plant within the County of Cumbria	A Brown Clive Hurt Ltd Cubby DSD G Lund Ltd IT Shaw Ltd JCS Plant John Elliot Metcalfe Bros Metcalfe Plant Hire Ltd Toman Contracting Ltd TT Kirkbride Ward Plane	12/09/2021	31/07/2025	No	Nil	Framework	Hosted in Westmorland and Furness	

FRAMEWORK - Utilities Contract Gas	Corona Energy Retail 4 Limited		31/03/2025	No	Nil	Contract	Hosted in Westmorland and Furness
Framework for Verge Maintenance and Arboricultural works	C Davidson Contractors Tyla Services Limited Ashlea Ltd Eden Woodland Consultants Greaves Tree Services Orchard Tree Surgery	01/07/2020	30/04/2024	Yes	2x 12 months (2 x 12 taken up)	Framework	Hosted in Westmorland and Furness
Instant Atlas Provision	Esri UK Ltd	01/08/2022	31/07/2023	No	Nil	Contract	Hosted in Westmorland and Furness
Integrated Sexual Health Services			30/09/2023	Yes	12 months	Contract	Hosted in Westmorland and Furness
JCT Measured Term Contract 2016 [Reactive Maintenance & Servicing Programme]	Integral UK Ltd	01/06/2020	31/03/2024	Yes	2 x 12 month extensions available - 1 extension taken	Contract	Hosted in Westmorland and Furness
Mediation and Disagreement Resolution Service	Collis Mediation Ltd	01/04/2020	31/03/2024	No	1 x 12 months used	Contract	Hosted in Westmorland and Furness
Mobility & Independence Services	The Guide Dogs for the Blind Association	04/01/2018	31/03/2023	yes	1 x 12 months	Contract	Hosted in Westmorland and Furness
Non-Operated Plant	<ul style="list-style-type: none"> <li>A-Plant Limited</li> <li>GAP Group Limited</li> </ul>	01/02/2020	31/01/2024	No	Nil	Framework	Hosted in Westmorland and Furness

Occupational Therapy Services	NCIC		31/12/2024	Yes	12 months	Contract	Hosted in Westmorland and Furness
Online Emotional Support Service	XenZone Limited NOW KNOWN AS Kooth Digital Health Limited	01/01/2020	31/12/2023	Yes	2 x 12 months taken	Contract	Hosted in Westmorland and Furness
Open Framework Agreement for supported living for people with a learning disability, mental health problem, autism or a physical/sensory impairment		14/04/2022	13/04/2026	No		Framework	Hosted in Westmorland and Furness
Prepaid Cards	Allpay Ltd					contract	Hosted in Westmorland and Furness
Provision of HR Administration and Payroll Services for Non Cheque Book Maintained Schools in Cumbria	Capita Business Services Ltd & North Yorkshire County Council	01/06/2020	31/03/2024	No	N/A	Framework	Hosted in Westmorland and Furness
Services Agreement relating to the Provision of Building Cleaning Services [For Corporate Properties]	Orian Solutions Ltd	01/04/2022	31/03/2024	Yes	1 X 12 months	Contract	Hosted in Westmorland and Furness
Speech and Language Therapies (Children's Services SEND)	NCIC		31/12/2024	Yes	12 months	Contract	Hosted in Westmorland and Furness
Transport DPS (for use in all areas)	Various		21/04/2025	No		Framework	Hosted in Westmorland and Furness

Vehicle Lease, Fleet Management & Flexible Rental Solutions_RM6096 [Lease Hire of up to 45x 3.5t Pickups (5 year term)]	Kinto		31/10/2026	No		Contract	Hosted in Westmorland and Furness
Vehicle Lease, Fleet Management & Flexible Rental Solutions_RM6096 [Lease Hire of Vehicles for CES (4 year term)]	Kinto & TCH Leasing		30/09/2025	No		Contract	Hosted in Westmorland and Furness
Shared Cost AVC's	AVC Wise Limited	18/11/2019	17/11/2022	Annual		Contract	Hosted in Westmorland and Furness
HR advice and information	XpertHR	22/06/2022	23/06/2022			Contract	Hosted in Westmorland and Furness

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**Part B – Hosted Contract Schedules**

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**SCHEDULE 8 – FINANCE**

**35 ANNUAL BUDGET AND BUDGET AMENDMENTS**

**2023/24**

- 35.1 The Authorities acknowledge that the agreed annual revenue budget for each Hosted Service covers discharging the Functions and delivering the Services outlined in the relevant Service Strategy. Where the Authorities agree that the Host Authority shall undertake Additional Work then they shall agree additional sums payable or a financial recovery mechanism outside of the agreed budget.
- 35.2 The agreed base revenue budget for each Hosted Service for the 2023/24 Financial Year is as detailed in Schedule [ ]. The Authorities agreed that the base revenue budget for 2023/24 will be increased by an agreed indexation allowance to reflect inflation and to reflect any pay awards agreed for the 2023/24. Any changes to the base revenue budget for 2023/24 as a result of the application of the agreed indexation allowance or to reflect pay awards will be agreed by the s151 for each Authority and reflected in a revised version of the table which is set out in Schedule [ ].

**Future Years**

- 35.3 The Joint Officer Board shall by not later than December in each Financial Year consider and recommend draft revenue Annual Budgets for each [Hosted Service] for the following Financial Year in each case which is based on the preceding Financial Year's budget, any inflationary increases and pay award increases and any approved in year changes to the budget which were agreed by the Authorities.
- 35.4 The draft Annual Budgets shall contain draft estimates of revenue income and expenditure of for the Hosted Service. The estimates shall include details as to how the expenditure is to be financed including a breakdown of the contributions required from each Authority.
- 35.5 The draft Annual Budgets shall reflect any existing grant funding received in respect of the services and if new grant funding is received the Annual Budget will be amended to reflect the new grant funding. Where the opportunity arises to apply for new grant funding the two Authorities will work together to determine whether to apply for the grant funding and the terms of any bid.
- 35.6 The draft Annual Budgets (as recommended by the Joint Officer Board) shall be considered by the Joint Executive Committee which shall, if agreed by the Joint Executive Committee (or with such amendments as are agreed by the Joint Executive Committee), be recommended by the Joint Executive Committee to the full council of each Authority as part of its annual budget setting process.
- 35.7 Following the agreement of the Annual Budgets for each Financial Year a revised version of the table set out in Schedule [ ] shall be produced reflecting the agreed base budgets for the next Financial Year.
- 35.8 The costs associated with providing internal resources in relation to the operation of the Hosted Service shall (if not included within the relevant Annual Budget), subject to Clause [ 1.8], be borne by the Authority providing that internal resource unless otherwise agreed.
- 35.9 Notwithstanding the above provisions, the Authorities hereby agree that if one of the Authorities believes it is likely to incur disproportionate internal resource costs in relation to the Hosted Services (taken in aggregate), the matter shall be referred to the Joint Executive Committee for a decision as to whether such costs will be disproportionate and whether any contributions should be made to this cost by the other Authority.
- 35.10 The Host Authority shall be the accountable body for the Annual Budgets and Clause [ ] (Accounts) shall apply.

**In Year Budget Changes**

- 35.11 Any change to the agreed revenue budget whether in respect of the existing scope of a Service Strategy or any change to the scope of the Service Strategy must be agreed in accordance with clause [1.11].
- 35.12 Where an additional cost is required to be incurred which is not anticipated by the relevant Annual Budget, such additional cost shall be:
  - 35.12.1 Subject to the approval of the delegated budget holder for the Hosted Service of each Authority where such additional cost is less than fifty thousand pounds (£50,000);
  - 35.12.2 Subject to the recommendation of the Joint Officer Board and subsequent sign-off by the relevant director of each Authority where such additional cost is between fifty thousand pounds (£50,000) and two hundred and fifty thousand pounds (£250,000);
  - 35.12.3 Subject to the approval of the Joint Executive Committee where such additional cost is between two hundred and fifty thousand pounds (£250,000) and five hundred thousand pounds (£500,000); and
  - 35.12.4 A Matter Reserved to the full Council of each Authority where such additional cost is in excess of five hundred thousand pounds (£500,000),
- 35.13 Where an additional cost is agreed in accordance with 1.11 a revised version of the table in Schedule [ ] shall be produced which reflects the agreed changes.

**Capital Expenditure**

- 35.14 The Authorities acknowledge that as part of the disaggregation of assets and liabilities on the Commencement Date the responsibility for any scheme in the capital programme related to the Hosted Services and the funding for such scheme has been transferred to the Host Authority such that the Host Authority is responsible for the implementation of the scheme and the funding of the scheme up to the budgeted cost for such scheme included in the 2023/24 budget for the Host Authority and that the Recipient Authority is not liable for any part of the funding.
- 35.15 If any additional costs are required to be incurred in respect of the scheme which is not included in the budgeted cost for such scheme included in the 2023/24 budget then the additional cost and the proposed apportionment of such cost between the two Authorities, shall be reported to the Joint Officer Board, who if they agree the proposals shall recommend to the Joint Executive Committee to consider and, if they agree the proposals, recommend them to the full council of each Authority for approval in accordance with their approval process for agreeing amendments to schemes within the capital programme.

**36 COSTS AND PAYMENTS**

- 36.1 The Authorities agree that:
  - 36.1.1 each Authority shall be responsible for the proportion of the agreed annual revenue budget detailed in [amended schedule] . The agreed revenue annual budget shall take account of projections of income (where relevant) and grant funding relevant to the Hosted Service;
  - 36.1.2 the Recipient Authority's proportion of the agreed budget shall be payable, subject to Clause 7.6.3, to the Host Authority monthly in advance;
  - 36.1.3 in respect of the first quarter following the Commencement Date a payment for the quarter shall be made by the Recipient Authority prior to the end of the first quarter;
  - 36.1.4 where a Host Authority incurs costs and expenses in delivering the Functions and Services outside of the agreed budget and without the agreement of the Recipient Authority, then

the Host Authority shall be responsible for those costs and expenses unless the Recipient Authority agrees otherwise; and

- 36.1.5 any income generated by a Function and Service is shared between the Authorities in accordance with their budget share unless a different basis of allocation has been agreed in the Service Schedules.
- 36.2 Prior to each payment being due in accordance with Clause [ ], each Authority shall provide a finance summary to the other Authority detailing the payment due in respect of the Hosted Services for which the first Authority is the Host Authority and the Authorities shall agree a net invoice having regard to the sums due from each Authority to the other in respect of all Hosted Services with an actual payment made only where an amount remains due from one Authority.

**Budget Monitoring In Year**

- 36.3 Following the end of each quarter, the Host Authority shall report to the Joint Officer Board on the performance of each Hosted Service against the agreed annual budget. Where the report shows:
  - 36.3.1 increased revenue or capital expenditure (expected overspend position against the annual budget) then a recommendation shall be made to the Authorities to increase the annual budget in accordance with [provisions above] and, if such increase is agreed, future monthly payments will be amended to reflect the increase;
  - 36.3.2 reduced revenue or capital expenditure (expected underspend position against the annual budget) then a recommendation shall be made to the Authorities to reduce the annual budget in accordance with the budget and policy framework for each Authority and reduce future monthly payments to reflect the decrease.
- 36.4 Following the end of each financial year, the Authorities shall reconcile the actual costs of each Hosted Service against the agreed annual budget (as amended). If the actual costs are less than the agreed annual budget as amended following agreement of this reconciliation, the Host Authority shall make a payment to the other Authority to reflect the outcome of the reconciliation.
- 36.5 Each Authority shall within ten (10) Working Days of receipt of the balancing schedule of payments in accordance with Clause [3.2.3]37.2.3, notify the other Authority if it disagrees with any element of the balancing schedule of payments. Unless the Authorities agree any amendments to be made to the balancing schedule of payments as a result of notice pursuant to this Clause [3.4], the matter shall be referred for agreement by the Joint Executive Committee (and, in default of agreement by the Joint Executive Committee, the matter shall be dealt with in accordance with Clause [ ] (Dispute Resolution)). Following agreement or determination of the balancing schedule of payments, the relevant Authority will make the balancing payment to the other Authority within twenty (20) Working Days.
- 36.6 The delivery of the Hosted Services shall be monitored by the Authorities jointly including through the Joint Executive Committee and the Joint Officer Board against the performance metrics, key performance indicators and standards set out in the Services Strategies and as developed jointly through the Joint Executive Committee. Where issues in delivery arise then the Authorities shall, through the Joint Executive Committee and the Joint Officer Board, develop and agree improvement plans. Once adopted by the Joint Executive Committee, the Authorities shall discharge their respective obligations under this Agreement and the Service Strategies so as to facilitate improvement in line with the improvement plan.

**37 ACCOUNTS**

**Accounts to reconcile Annual Budget**

- 37.1 Each Authority shall prepare accounts in respect of the Annual Budgets (the "AB Accounts") for each Hosted Service of which they are the Hosted Authority in respect of each Accounting Period.
- 37.2 The Host Authority shall:

- 37.2.1 in the AB Accounts make true and complete entries of all relevant payments and receipts made by it during the previous Accounting Period;
  - 37.2.2 within one month of the end of the Accounting Period, provide to the Recipient Authority unaudited AB Accounts for such Accounting Period for each Hosted Service together with certification that such AB Accounts comply with this Clause 3;
  - 37.2.3 prepare and provide to the Recipient Authority a reconciliation statement identifying the balance due from or owing to the Host Authority,
- 37.3 Each Authority shall nominate an appropriate individual to be responsible for ensuring compliance with this Clause 37 and the name, address and telephone number of the individual nominated pursuant to this Clause 3 shall be notified to the other Authority in accordance with Clause [ ]; and
- 37.4 If an individual nominated pursuant to Clause 37.3 changes, the Council shall notify the other Council forthwith of the replacement nominee.

**Audits**

- 37.5 Subject to ensuring compliance with each Authority's audit requirements, the Authorities agree that the auditor for the Host Authority shall carry out the audit of the each Hosted Service.
- 37.6 The Host Authority shall at all times maintain an up to date register of the assets and committed liabilities of each of the Authorities relating to the Hosted Service and the Authorities will each advise the Host Authority of any such assets and committed liabilities which should be included in such register.

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**APPENDIX 1 HOSTED SERVICE BUDGET FOR 2023/24**

The below table outlines the agreed based budget for each Hosted Service for 2023/24.

[Council to insert]

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