**LONDON BOROUGH OF CROYDON**

**CONTRACT FOR THE PROVISION OF SERVICES**

**THIS CONTRACT** dated is made between

1. **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CROYDON** of Town Hall, Katharine Street, Croydon, Surrey, CR0 1NX (the Council).
2. [**FULL COMPANY NAME**] incorporated and registered in England and Wales with company number [**NUMBER**] whose registered office is at [**REGISTERED OFFICE ADDRESS**] (the **Contractor**).

**Introduction**

1. [The Council sought proposals for the provision of [INSERT OUTLINE OF SERVICES] by means of a public tender exercise.] [The Council placed a contract notice [REFERENCE] on [DATE] in the Official Journal of the European Union seeking expressions of interest from potential providers for the provision of [INSERT OUTLINE OF SERVICES].]
2. The Council has, through a competitive process, selected the Contractor to provide these services and the Contractor is willing and able to provide the services in accordance with the terms and conditions of this Contract.

**NOW IT IS AGREED** between the Council and the Contractor that:

A. Any words beginning with a capital letter shall bear the meaning given in the London Borough of Croydon Provision of Services Conditions of Contract **(Conditions)** unless the context requires otherwise.

B. The Contract comprises the **[delete or amend/add as applicable]**

* 1. **Invitation and Instructions to Tender**
  2. **Form of Tender**
  3. **Specification and Pricing Schedule**
  4. **Brief/Order**
  5. **Conditions**
  6. **Tender Response Document**
  7. **Supplemental documentation (for example, Whistle-blowing Procedure)**
  8. **Performance Bond and/or Deed of Guarantee and Indemnity**
  9. **Any other documents identified in the Conditions as being incorporated into the Contract**

C. The Contractor shall provide the Services in accordance with the provisions of the Contract.

D. Subject to compliance by the Contractor with the provisions of the Contract to the satisfaction of the Council the Council shall pay the Charges to the Contractor.

This Contract has been executed as a deed and is delivered on the date stated at the beginning of it.

|  |  |  |
| --- | --- | --- |
| **THE COMMON SEAL** of **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF CROYDON** was affixed to this Contract in the presence of: | )  )  )  ) | [Common Seal] |
|  |  |  |
| By Order of |  |  |
|  |  |  |

|  |  |  |
| --- | --- | --- |
| **EXECUTED** as a **DEED** by affixing **THE COMMON SEAL** OF **[NAME OF COMPANY]** in the presence of:  ................................................ | )  )  )  ) | [Common Seal] |
| Director |  |  |
| ................................................ |  |  |
| Director/Secretary |  |  |

**[OR IF NO REQUIREMENT IN ARTICLES TO USE SEAL]**

|  |  |  |
| --- | --- | --- |
| **EXECUTED** as a **DEED** by [**NAME OF COMPANY]** acting by [NAME OF DIRECTOR], a director, and [NAME OF DIRECTOR/SECRETARY], a director/its secretary. | )  )  )  )  )  )  ) | ................................................  Director |
|  | ) | ................................................ |
|  |  | Director/Secretary |

# LONDON BOROUGH OF CROYDON

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# DEFINITIONS AND INTERPRETATION

## The definitions and rules of interpretation in this Condition apply in the Contract Documents.

[Achieved Service Levels: in respect of any Service in any measurement period, the standard of performance actually achieved by the Contractor in the provision of that Service in the measurement period in question (calculated and expressed in the same way as the Service Level for that Service is calculated and expressed in Schedule 2).]

**Anti-Slavery Policy**: the Council’s anti-slavery policy as notified to the Contractor from time to time.

Assets: any materials, plant or equipment owned or held by the Council and provided by the Council for use in providing the Services.

Associated Company: any holding company from time to time of the Contractor and any subsidiary from time to time of the Contractor, or any subsidiary of any such holding company.

Authorised Representatives: the persons respectively designated as such by the Council and the Contractor, the first such persons being set out in Schedule 4.

Best Industry Practice: the standards which fall within the upper quartile in the relevant industry for the provision of comparable services which are substantially similar to the Services or the relevant part of them, having regard to factors such as the nature and size of the parties, the service levels, the term, the pricing structure and any other relevant factors.

Bribery Act: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Brief: the Council’s written instructions to the Contractor to supply services in accordance with the Specification.

Catastrophic Failure

1. [a failure by the Contractor for whatever reason to implement the Disaster Recovery Plan successfully and in accordance with its terms on the occurrence of a Disaster.]
2. any action by the Contractor, whether in relation to the Services and the Contract or otherwise, which in the reasonable opinion of the Council’s Representative has or may cause significant harm to the reputation of the Council.
3. [INSERT OTHERS]

Change: any change to the Contract including to any of the Services.

Change Control Procedure: the procedure for changing the Contract, as set out in Schedule 6.

Charges: the charges which shall become due and payable by the Council to the Contractor in respect of the Services in accordance with the provisions of the Contract, as such charges are set out in Schedule 3.

**Commencement Date:** [ enter date] or such other date as may be reasonably stipulated by the Council’s Authorised Representative to be the commencement date for the supply of the Services provided always that date does not precede the Contract Date.

Commercially Sensitive Information: the information listed in Schedule 9 comprising the information of a commercially sensitive nature relating to the Contractor, its intellectual property rights or its business or which the Contractor has indicated to the Council that, if disclosed by the Council, would cause the Contractor significant commercial disadvantage or material financial loss.

Conditions: these London Borough Provision of Services Conditions of Contract.

Consistent Failure: shall have the meaning set out in Part 1 of Schedule 2.

Contract Date: the date notified by the Council to the Contractor on which the Council’s award of the Contract shall be deemed to have taken effect allowing for the expiry of any applicable “standstill period”.

Contract Documents: those documents which evidence the terms of the Contract which include (without limitation) the ITT, the Form of Tender, the Brief or Order, the Tender Response Document, the Specification, and these Conditions together with all appendices and schedules to those documents and any supplemental agreement and modification to the Contract.

Contract Year: a period of 12 months, commencing on the Commencement Date and each consecutive period of 12 months after that during the Term.

Contract: the agreement concluded between the Council and the Contractor, relating to the supply of Services by the Contractor and comprising all the Contract Documents as varied from time to time.

Contractor Party: the Contractor’s agents and contractors, including each Sub-Contractor.

Contractor/’s Personnel: all employees, staff, other workers, servants, agents, suppliers and consultants of the Contractor and of any Sub-Contractors who are engaged in the performance of its obligations under this Contract from time to time.

CPI: the Consumer Prices Index published by the Office for National Statistics.

Crown Body: any department, office or agency of the government of the United Kingdom (including the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales) including, but not limited to, government ministers and government departments and particular bodies, persons and government agencies.

Data Breach: means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, Personal Data transmitted, stored or otherwise processed.

Data Controller: has the meaning given to ‘Data Controller’, or ‘Controller’ as appropriate, in the Data Protection Laws.

**Data Processor**: has the meaning given to ‘Data Processor’, or ‘Processor’ as appropriate, in the Data Protection Laws.

Data Protection Laws: means any and all laws, statutes, enactments, orders or regulations or other similar instruments of general application and any other rules, instruments or provisions in force from time to time relating to the processing of personal data and privacy applicable to the performance of this agreement, including where applicable the Data Protection Act 1998, the Data Protection Bill, the Regulation of Investigatory Powers Act 2000, the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and the GDPR (Regulation (EU) 2016/679), as amended or superseded.

Default Notice: is defined in Condition 6.2.

[Disaster: an event defined as a disaster in the Disaster Recovery Plan.]

[Disaster Recovery Plan: a plan which sets out the procedures to be adopted by the Contractor in the event that [INSERT WHAT DISASTER RECOVERY PLAN IS TO COVER] by reason of a Disaster (including the procedures to be taken by the Contractor in planning and providing for any such event), the Disaster Recovery Plan at the date of the Contract being set out in Schedule 5.]

Dispute Resolution Procedure: the procedure set out in Condition 25.

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

Exit Management Plan: the plan set out in Schedule 7.

Form of Tender: the form of tender to include both the unconditional and, where appropriate, conditional offers submitted by the Contractor to the Council to which these Conditions are attached.

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

GDPR: means Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data, and repealing directive 95/46/EC as updated, superseded or repealed from the time to time.

Guarantee: a guarantee given by the Contractor’s parent company (or other company) guaranteeing the obligations of the Contractor under the Contract in the form set out in the ITT.

Health and Safety Policy: the health and safety policy of the Council [and/or other relevant Central Government Body] as provided to the Contractor on or before the Commencement Date and as subsequently provided to the Contractor from time to time except any provision of any such subsequently provided policy that cannot be reasonably reconciled to ensuring compliance with applicable law regarding health and safety.

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

Initial Term: the period commencing on the Commencement Date and ending on the [NUMBER] anniversary of the Commencement Date.

Intellectual Property: any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trade marks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

ITT: the Council’s invitation to tender to prospective contractors to supply the Services.

Key Personnel: those personnel identified in Schedule 4 for the roles attributed to such personnel, as modified pursuant to Condition 16.

London Living Wage Rate: the basic hourly rate before tax and other deductions determined and published by the Greater London Authority from time to time.

Management Reports: the reports to be prepared and presented by the Contractor in accordance with Condition 22 and Schedule 4 to include a comparison of Achieved Service Levels with the Service Levels in the measurement period in question and measures to be taken to remedy any deficiency in Achieved Service Levels.

Necessary Consents: all approvals, certificates, authorisations, permissions, licences, permits, regulations and consents necessary from time to time for the performance of the Service including without limitation all [INSERT DETAILS OF SPECIFIC CONSENTS REQUIRED (IF ANY)].

[**Order:** the Council’s written instructions to the Contractor, which the Council may issue from time to time, requiring the Contractor to supply the Services.]

**Performance Bond:** a bond in the form set out in the ITT to be made in the Council’s favour by the entity which gave the Performance Bond Undertaking.

**Performance Bond Undertaking:** an undertaking given by a bank, insurance company, or other financial institution to provide a bond to guarantee the Contractor’s due performance of its obligations under the Contract and the form of which is set out in the ITT.

Personal Data: has the meaning given in the Data Protection Laws.

Premises: any premises which the Council makes available for use by the Contractor for the provision of the Services on the terms set out in the Contract.

Prohibited Act: the following constitute Prohibited Acts:

1. to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:
   * + 1. induce that person to perform improperly a relevant function or activity; or
       2. reward that person for improper performance of a relevant function or activity;
2. to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;
3. committing any offence:
   * + 1. under the Bribery Act;
       2. under legislation creating offences concerning fraudulent acts;
       3. at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or
       4. defrauding, attempting to defraud or conspiring to defraud the Council.

Regulated Activity: in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

Regulated Activity Provider: shall have the same meaning as set out in section 6 of the Safeguarding Vulnerable Groups Act 2006.

Relevant Transfer: a relevant transfer for the purposes of TUPE.

Remediation Notice: a notice served by the Council in accordance with Condition 34.1(a)).

Replacement Services: any services that are identical or substantially similar to any of the Services and which the Council receives in substitution for any of the Services following the termination or expiry of the Contract, whether those services are provided by the Council internally or by any Replacement Contractor.

Replacement Contractor: any third party Contractor of Replacement Services appointed by the Council from time to time.

Request for Information: a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIR.

**Safeguarding Suspension/Termination Procedure**: the Council’s procedure (as amended from time to time) for terminating or suspending the Contractor’s provision of Services in the circumstances set out in Condition 34.3 and which, for the time being, is set out in the document entitled “London Borough of Croydon Multi-Agency Process for the Suspension or Termination of Commissioning Placements in the event of Commissioning Concerns”, a copy of which is at Part 2, Schedule 11.

Service Credits: the sums attributable to a Service Failure as specified in Part 2 of Schedule 2.

Service Failure: a failure by the Contractor to provide the Services in accordance with any individual Service Level[ measured on a monthly basis].

Service Levels: the service levels to which the Services are to be provided, as set out in Schedule 2.

Services: the services to be delivered by or on behalf of the Contractor under the Contract, as more particularly described in the Specification.

Specification: the specification (including any appendices to it) attached to the Invitation to Tender describing the Services, as may be varied from time to time in accordance with Condition 24.

Sub-Contract: any contract between the Contractor and a third party pursuant to which the Contractor agrees to source the provision of any of the Services from that third party.

Sub-Contractor: the contractors or service providers that enter into a Sub-Contract with the Contractor.

Tender Response Document: the tender submitted by the Contractor to provide the Services pursuant to the Form of Tender and in accordance with the Contract Documents.

Term: the period of the Initial Term as may be varied by:

1. any extensions to the Contract which are agreed pursuant to Condition 3; or
2. the earlier termination of the Contract in accordance with its terms.

Termination Date: the date of expiry or termination of the Contract.

Termination Payment Default: the Council’s failure to pay any undisputed Charges due to the Contractor within 60 days of the relevant invoice becoming due and payable.

TUPE: the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246).

Unforeseen Event: any cause affecting the performance by a party of its obligations under the Contract arising from acts, events, omissions or non-events beyond its reasonable control, including acts of God, riots, war, acts of terrorism, fire, flood, storm or earthquake and any disaster, but excluding any industrial dispute relating to the Contractor, the Contractor’s Personnel or any other failure in the Contractor’s supply chain.

VAT: value added tax or any other similar “sales” tax.

Working Day: Monday to Friday, excluding any public holidays in England and Wales.

## Condition, schedule and paragraph headings shall not affect the interpretation of the Contract.

## A **person** includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person’s legal and personal representatives, successors and permitted assigns.

## The schedules to these Conditions form part of the Conditions and shall have effect as if set out in full in the body of these Conditions and any reference to these Conditions includes the schedules.

## A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.

## References to a **holding company** and a **subsidiary** mean a "holding company" and "subsidiary" as defined in section 1159 of the Companies Act 2006 and a company shall be treated, for the purposes only of the membership requirement contained in subsections 1159(1)(b) and (c), as a member of another company even if its shares in that other company are registered in the name of (a) another person (or its nominee), whether by way of security or in connection with the taking of security, or (b) its nominee. In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that: (a) references in sub sections 1159(1)(a) and (c) to voting rights are to the members’ rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and (b) the reference in section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.

## Words in the singular shall include the plural and vice versa.

## A reference to one gender shall include a reference to the other genders.

## A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.

## A reference to **writing** or **written** includes faxes [but not **OR** and] e-mail.

## Any obligation in the Contract on a person not to do something includes an obligation not to agree or allow that thing to be done.

## A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of the Contract) at any time.

## References to Conditions and schedules are to the conditions and schedules of these Conditions; references to paragraphs are to paragraphs of the relevant schedule.

## Where there is any conflict or inconsistency between the provisions of the Contract, such conflict or inconsistency shall be resolved according to the following order of priority:

### these Conditions;

### the Specification;

### the [Order] OR [Brief];

### the ITT;

### the Tender Response Document; and

### the Form of Tender.

# COMMENCEMENT AND DURATION

# TERM

The Contract shall take effect on the Commencement Date and shall continue for the Term.

# EXTENDING THE INITIAL TERM

## The Council may extend the Contract beyond the Initial Term by a further period or periods of up to [NUMBER] years (**Extension Period**). If the Council wishes to extend the Contract, it shall give the Contractor at least [NUMBER] months’ written notice of such intention before the expiry of the Initial Term or Extension Period.

## If the Council gives such notice then the Term shall be extended by the period set out in the notice.

## If the Council does not wish to extend the Contract beyond the Initial Term the Contract shall expire on the expiry of the Initial Term and the provisions of Condition 39 shall apply.

# CONSENTS, CONTRACTOR’S WARRANTY AND DUE DILIGENCE

## The Contractor shall ensure that all Necessary Consents are in place to provide the Services and the Council shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.

## Where there is any conflict or inconsistency between the provisions of the Contract and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Contractor has made all reasonable attempts to obtain a Necessary Consent in line with the requirements of the Services.

## The Contractor acknowledges and confirms that:

### it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of the Contract;

### it has received all information requested by it from the Council pursuant to Condition 4.3(a) to enable it to determine whether it is able to provide the Services in accordance with the terms of the Contract;

### it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Council pursuant to Condition 4.3(b);

### it has raised all relevant due diligence questions with the Council before the Commencement Date; and

### it has entered into the Contract in reliance on its own due diligence.

## Save as provided in the Contract, no representations, warranties or conditions are given or assumed by the Council in respect of any information which is provided to the Contractor by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

## The Contractor:

### as at the Commencement Date, warrants and represents that all information contained in the Tender Response Document remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Contract; and

### shall promptly notify the Council in writing if it becomes aware during the performance of the Contract of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services or meet any Service Levels.

## The Contractor shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the Contractor in accordance with Condition 4.5(b) save where such additional costs or adverse effect on performance have been caused by the Contractor having been provided with fundamentally misleading information by or on behalf of the Council and the Contractor could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, the Contractor shall be entitled to recover such reasonable additional costs from the Council or shall be relieved from performance of certain obligations as shall be determined by the Change Control Procedure.

## Nothing in this Condition 4 shall limit or exclude the liability of the Council for fraud or fraudulent misrepresentation.

# [GUARANTEE AND PERFORMANCE BOND

## If the Contractor is a subsidiary, it shall, within 21 days of the Contract Date, procure that its holding company provides a Guarantee to the Council to secure the due performance by the Contractor of its obligations under the Contract.

## If so required by the Council, the Contractor shall, within 21 days of the Contract Date, provide to the Council, at the Contractor’s own expense, the Performance Bond from the entity which has executed the Performance Bond Undertaking. The Contractor shall ensure that such Bond remains in force throughout the Contract Period and for a further six (6) months following the Contract’s termination or expiry.

## The initial sum required under the Performance Bond will be ten percent (10%) of the total, estimated if necessary, sum payable by the Council during the first Contract Year as shown in the Tender Response Document or any other Contract Document.]

# THE SERVICES

# SUPPLY OF SERVICES

## The Contractor shall provide the Services to the Council with effect from the [Commencement Date **OR** [INSERT DATE]] and for the duration of the Contract in accordance with the provisions of the Contract.

## If the Contractor does not comply with the provisions of Condition 6.1 in any way, the Council may serve the Contractor with a notice in writing setting out the details of the Contractor’s default (a **Default Notice**).

# SERVICE LEVELS

## Where any Service is stated in Schedule 2 to be subject to a specific Service Level, the Contractor shall provide that Service in such a manner as will ensure that the Achieved Service Level in respect of that Service is equal to or higher than such specific Service Level.

## As existing Services are varied and new Services are added, Service Levels for the same will be determined and included within Schedule 2.

## The Contractor shall provide records of and Management Reports summarising the Achieved Service Levels as provided for in Condition 22.

## If any Achieved Service Level falls short of the relevant Service Level, without prejudice to any other rights the Council may have, the provisions of Condition 14 shall apply.

# SERVICE STANDARDS

## Without prejudice to Condition 7, the Contractor shall provide the Services, or procure that they are provided:

### with reasonable skill and care and in accordance with [the best practice prevailing in the [INSERT INDUSTRY RELEVANT TO TYPE OF SERVICES BEING PROVIDED] industry from time to time];

### in all respects in accordance with the Council’s policies set out in Schedule 1; and

### in accordance with all the laws of England and the European Union and any other laws or regulations, regulatory policies, guidelines or industry codes which apply to the provision of the Services.

## Without limiting the general obligations set out in Condition 8.1, the Contractor shall (and shall procure that the Contractor’s Personnel shall):

### at all times comply with the provisions of the Human Rights Act 1998 in the performance of the Contract. The Contractor shall also undertake, or refrain from undertaking, such acts as the Council requests so as to enable the Council to comply with its obligations under the Human Rights Act 1998; and

### not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment.

# HEALTH AND SAFETY

## The Contractor shall promptly notify the Council of any health and safety hazards, which may arise in connection with the performance of the Contract. The Council shall promptly notify the Contractor of any health and safety hazards that may exist or arise at the Premises and that may affect the Contractor in the performance of the Contract.

## While on the Premises, the Contractor shall comply with any Health and Safety Policies implemented by the Council in respect of staff and other persons working on the Premises.

## The Contractor shall notify the Council immediately in the event of any incident occurring in the performance of the Contract on the Premises where that incident causes any personal injury or damage to property that could give rise to personal injury.

## The Contractor shall comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to staff and other persons working on the Premises in the performance of the Contract.

## The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc Act 1974) is made available to the Council on request.

# PREMISES AND ASSETS

## The Council shall, subject to Condition 9 and Condition 17, provide the Contractor (and its Sub-Contractors) with access to such parts of the Premises as the Contractor reasonably requires for the purposes only of properly providing the Services.

## The Council shall provide the Contractor with such accommodation and facilities in the Premises as is agreed by the parties from time to time.

## Subject to the requirements of Condition 39 and the Exit Management Plan, in the event of the expiry or termination of the Contract, the Council shall on reasonable notice provide the Contractor with such access as the Contractor reasonably requires to the Premises to remove any of the Contractor’s equipment. All such equipment shall be promptly removed by the Contractor.

## The Contractor shall ensure that:

### where using the Premises and any Assets they are kept properly secure and it will comply and cooperate with the Council’s Authorised Representative’s reasonable directions regarding the security of the same;

### only those of the Contractor’s Personnel that are duly authorised to enter upon the Premises for the purposes of providing the Services, do so; and

### any Assets used by the Contractor are maintained (or restored at the end of the Term) in the same or similar condition as at the Commencement Date (fair wear and tear excepted) and are not removed from Council Premises unless expressly permitted under the Contract or by the Council’s Authorised Representative.

## The Council shall maintain and repair the Assets, however, where such maintenance or repair arises directly from the act, omission, default or negligence of the Contractor or its representatives (fair wear and tear excluded) the costs incurred by the Council in maintaining and repairing the same shall be recoverable from the Contractor as a debt.

## The Contractor shall notify the Council immediately on becoming aware of any damage caused by the Contractor, its agents, employees or Sub-Contractors to any property of the Council, to any of the Premises or to any property of any other recipient of the Services in the course of providing the Services.

# UNACCEPTABLE PRACTICES

## The Contractor shall, without prejudice to Condition 9 or Condition 10.6, when providing the Services, not use methods of operation which would impair or endanger safe working arrangements or give rise to damage or potential damage to persons or property or cause nuisance or inconvenience to the public. Without prejudice to the generality of the foregoing, the following acts or omissions are a non-exhaustive list of unacceptable practices at the Premises:

### a failure properly to dispose of refuse within the working day;

### the throwing of bags, sacks or other heavy items from balconies, walkway, bridges, across footpaths or near members of the public;

### leaving bags, sacks or other refuse at the Premises;

### leaving unsecured any vehicle, machine or item of plant (whether or not immobilised);

### a failure to take adequate precautions when using petrol or other inflammable or cleaning chemicals or dangerous substances, and leaving such substances unattended or, where the Council’s Authorised Representative has approved the locked container as suitable for the purpose, unsecured; or

### carrying out any acts, at the Premises, which may give rise to public outrage.

## The Contractor shall not and shall ensure that the Contractor’s Personnel shall not display in or on any vehicle or item of plant any material of an offensive nature. The Council’s Authorised Representative may require the immediate removal of any material which, in their sole opinion, they consider is offensive.

## A breach of this Condition 11 shall be deemed a material breach of the Contract for the purposes of Condition 34.1.

# [DISASTER RECOVERY

## The Contractor shall comply at all times with the relevant provisions of the Disaster Recovery Plan.

## Following the declaration of a Disaster in respect of any of the Services, the Contractor shall:

### implement the Disaster Recovery Plan;

### continue to provide the affected Services to the Council in accordance with the Disaster Recovery Plan; and

### restore the affected Services to normal within the period laid out in the Disaster Recovery Plan.

## To the extent that the Contractor complies fully with the provisions of this Condition 12 (and the reason for the declaration of a Disaster was not breach of any of the other terms of the Contract on the part of the Contractor), the Service Levels to which the affected Services are to be provided during the continuation of the Disaster shall not be the Service Levels as referred to in Condition 7 but shall be the service levels set out in the Disaster Recovery Plan or (if none) the best service levels which are reasonably achievable in the circumstances.]

# CHARGES AND PAYMENT

# PAYMENT

## In consideration of the provision of the Services by the Contractor in accordance with the terms and conditions of the Contract, the Council shall pay the Charges to the Contractor.

## The Contractor shall invoice the Council for payment of the Charges at the time the Charges are expressed to be payable in accordance with the Schedule 3. All invoices shall be directed to the Council Authorised Representative. [Any such invoices shall take into account any Service Credits which have been accrued in the previous period.]

## The Contractor shall:

### not pay any Contractor’s Personnel or staff an hourly wage (or equivalent) less than the London Living Wage Rate in respect of the time spent by that staff member in the delivery of the Services to the Council;

### provide the Council such information concerning the London Living Wage Rate as the Council or its nominees may reasonably require from time to time, such information to be provided as part of the Contract Management Requirements to include evidence that the Contractor is complying with the provisions of this Condition 13.3;

### co-operate with the Council and provide such assistance in monitoring the effect of the London Living Wage Rate as the Council may reasonably require.

## Where the Contractor submits an invoice to the Council in accordance with Condition 13.2, the Council will consider and verify that invoice in a timely fashion. The Council shall pay the Contractor any sums due under such an invoice no later than a period of 30 days from the date on which the Council has determined that the invoice is valid and undisputed.

## Where there is an undue delay in the Council considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of Condition 13.4 after a reasonable time has passed.

## Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with Condition 25. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until the earlier of 28 days after resolution of the dispute between the parties.

## Subject to Condition 13.6, interest shall be payable on the late payment of any undisputed Charges properly invoiced under the Contract in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. The Contractor shall not suspend the supply of the Services if any payment is overdue unless it is entitled to terminate the Contract under Condition 34.6 for failure to pay undisputed charges.

## The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Council following delivery of a valid VAT invoice. The Contractor shall indemnify the Council against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Council at any time in respect of the Contractor’s failure to account for, or to pay, any VAT relating to payments made to the Contractor under the Contract.

## The Contractor shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Council pursuant to the Contract. Such records shall be retained for inspection by the Council for 6 (six) years from the end of the Contract Year to which the records relate.

## Where the Contractor enters into a Sub-Contract, the Contractor shall include in that Sub-Contract:

### provisions having the same effect as Conditions 13.4 and 13.5 of the Contract; and

### a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as Conditions 13.4, 13.5 and 13.10 of this Contract.

## The Council may retain or set off any sums owed to it by the Contractor which have fallen due and payable against any sums due to the Contractor under the Contract, including the Admission Agreement (as defined in Schedule 8), or any other agreement pursuant to which the Contractor or any Associated Company of the Contractor provides goods or services to the Council.

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

## The parties shall meet in [SPECIFY MONTH] of each Contract Year to review and, where appropriate, agree changes to the Charges (**Charges Review**). Agreed changes shall take effect on [the next anniversary of the Commencement Date]. The first Charges Review shall be held in [SPECIFY MONTH AND YEAR]. In agreeing Charges for the following Contract Year, the parties shall have regard to the following factors:

### changes to the Contractor’s costs of providing the Services;

### the price at which the Contractor supplies the Services to comparable customers;

### the prices at which comparable services are supplied by other Contractors in the open market; and

### any cost reductions achieved by the Contractor since the last Charges Review (to the extent that they have not already been taken into account in the Charges); and

## If within one month of beginning a Charges Review, the parties cannot agree the Charges for the following Contract Year, the Charges then pertaining shall be increased or reduced by a percentage equivalent to the percentage increase or reduction (if any) shown by the CPI since the Commencement Date or the last Charges Review.

# SERVICE CREDITS

## If the Contractor fails to provide the Services in accordance with any individual Service Level[ measured on a monthly basis], the Contractor shall pay to the Council the Service Credit set out in Part 2 of Schedule 2.

## The parties agree that any such Service Credit has been calculated as, and is, a genuine pre-estimate of the loss likely to be suffered by the Council. The Contractor has taken the Service Credit into account in setting the level of the Charges.

# BEST VALUE

The Contractor shall at all times assist the Council in the achievement of its duty to obtain “Best Value” in accordance with the provisions of the Local Government Act 1999 and shall do all that is required by the Council in this regard.

# STAFF

# KEY PERSONNEL

## Each party shall appoint the persons named as such in Schedule 4 as the individuals who shall be responsible for the matters allocated to such Key Personnel. The Key Personnel shall be those people who are identified by each party as being key to the success of the implementation and/or operation of the Services and who shall be retained on the implementation and/or operation of the Services for such time as a person is required to perform the role which has been allocated to the applicable Key Personnel. The Key Personnel shall have the authority to act on behalf of their respective party on the matters for which they are expressed to be responsible.

## The Contractor shall not remove or replace any of the Key Personnel unless:

### requested to do so by the Council;

### the person is on long-term sick leave;

### the element of the Services in respect of which the individual was engaged has been completed to the Council’s satisfaction;

### the person resigns from their employment with the Contractor; or

### the Contractor obtains the prior written consent of the Council.

## The Contractor shall inform the Council of the identity and background of any replacements for any of the Key Personnel as soon as a suitable replacement has been identified. The Council shall be entitled to interview any such person and may object to any such proposed appointment within 14 Working Days of being informed of or meeting any such replacement if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.

## Each party shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than [NUMBER] Working Days. Any replacement shall be as, or more, qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced. A temporary replacement shall be identified with immediate effect from the Contractor or the Council becoming aware of the role becoming vacant.

## The Council may require the Contractor to remove, or procure the removal of, any of its Key Personnel whom it considers, in its reasonable opinion, to be unsatisfactory for any reason which has a material impact on such person’s responsibilities.

## If the Contractor replaces the Key Personnel as a consequence of this Condition 16, the cost of effecting such replacement shall be borne by the Contractor.

# OTHER PERSONNEL USED TO PROVIDE THE SERVICES

## At all times, the Contractor shall ensure that:

### each of the Contractor’s Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;

### there is an adequate number of Contractor’s Personnel to provide the Services properly;

### only those people who are authorised by the Contractor (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; and

### all of the Contractor’s Personnel comply with all of the Council’s policies including those that apply to persons who are allowed access to the applicable Premises.

## The Council may refuse to grant access to, and remove, any of the Contractor’s Personnel who do not comply with any such policies, or if they otherwise present a security threat.

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

## The Contractor shall maintain up-to-date personnel records on the Contractor’s Personnel engaged in the provision of the Services and, on request, provide reasonable information to the Council on the Contractor’s Personnel. The Contractor shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Laws.

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

# [SAFEGUARDING CHILDREN AND VULNERABLE ADULTS

## If the Contractor is a Regulated Activity Provider:

### the Contractor shall have ultimate responsibility for the management and control of the Regulated Activity provided under the Contract and for the purposes of the Safeguarding Vulnerable Groups Act 2006; and

### the Contractor shall comply with its obligations set out in Schedule 11.]

# TUPE

The parties agree that the provisions of Schedule 8 shall apply to any Relevant Transfer of staff under the Contract.

# WHISTLE-BLOWING

## [Prior to the Contract Date, the Contractor shall, subject to the prior approval by the Council of its content, adopt a whistle-blowing policy.]

[**DN: Condition 21.1 is optional and may be included in contracts for services in sectors where whistleblowing is quite topical, such as vulnerable care**]

## The Council confirms that its Authorised Representative is authorised as a person to whom the Contractor’s Personnel may make a qualifying disclosure under the Public Interest Disclosure Act 1998 (**PIDA**) in accordance with the Council’s “Whistle-blowing Procedure”, a copy of which the Council has provided to the Contractor.

## The Contractor agrees and acknowledges that any of the Contractor’s Personnel making a protected disclosure (as defined by PIDA) shall not be subjected to any detriment. The Contractor further agrees that any provision in an agreement purporting to preclude any of the Contractor’s Personnel from making a protected disclosure is void.

# [CREATION OF TRAINING AND EMPLOYMENT OPPORTUNITIES

The Contractor shall actively participate in the potential for economic and social regeneration which results from the Contract and fulfil its obligations set out in Part 1, Schedule 10.]

# CONTRACT MANAGEMENT

# REPORTING AND MEETINGS

## The Contractor shall provide the management reports in the form and at the intervals set out in Schedule 4.

## The Authorised Representatives and relevant Key Personnel shall meet in accordance with the details set out in Schedule 4 and the Contractor shall, at each meeting, present its previously circulated Management Reports in the format set out in that Schedule.

# MONITORING

## The Council may monitor the performance of the Services by the Contractor.

## The Contractor shall co-operate, and shall procure that its Sub-Contractors co-operate, with the Council in carrying out the monitoring referred to in Condition 23.1 at no additional charge to the Council.

# CHANGE CONTROL AND CONTINUOUS IMPROVEMENT

## Any requirement for a Change shall be subject to the Change Control Procedure.

## The Contractor shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services. As part of this obligation the Contractor shall identify and report to the Council’s Representative [quarterly] in the first Contract Year and once every six months for the remainder of the Term on:

### the emergence of new and evolving relevant technologies which could improve the Services;

### new or potential improvements to the Services including the [quality, responsiveness, procedures, benchmarking methods, performance mechanisms and customer support services in relation to the Services [DELETE/ADD ADDITIONAL REQUIREMENTS AS APPROPRIATE]];

### new or potential improvements to the interfaces or integration of the Services with other services provided by third parties or the Council which might result in efficiency or productivity gains or in reduction of operational risk; and

### changes in ways of working that would enable the Services to be delivered at lower costs and/or at greater benefits to the Council.

## Any potential Changes highlighted as a result of the Contractor’s reporting in accordance with Condition 24.2 shall be addressed by the parties using the Change Control Procedure.

# DISPUTE RESOLUTION

## Either party may call an extraordinary meeting of the parties by service of not less than 5 days’ written notice and each party agrees to procure that its Authorised Representative together with any other member of Key Personnel requested to attend by the Council (if any) shall attend all extraordinary meetings called in accordance with this Condition.

## The members of the relevant meeting shall use their best endeavours to resolve disputes arising out of the Contract. If any dispute referred to a meeting is not resolved at that meeting then either party, by notice in writing to the other, may refer the dispute to [senior officers of the two parties] who shall co-operate in good faith to resolve the dispute as amicably as possible within 14 days of service of such notice. If the senior officers fail to resolve the dispute in the allotted time, then the parties shall, within that period, on the written request of either party enter into an alternative Dispute Resolution Procedure with the assistance of a mediator agreed by the parties or, in default of such agreement within seven days of receipt of such request, appointed, at the request of either party, by the Centre for Effective Dispute Resolution (**CEDR**) or such other similar body as is agreed.

## The parties shall then submit to the supervision of the mediation by the CEDR or similar body for the exchange of relevant information and for setting the date for negotiations to begin.

## Recourse to this Dispute Resolution Procedure shall be binding on the parties as to submission to the mediation but not as to its outcome. Accordingly all negotiations connected with the dispute shall be conducted in strict confidence and without prejudice to the rights of the parties in any future legal proceedings. Except for any party’s right to seek interlocutory relief in the courts, no party may commence other legal proceedings under the jurisdiction of the courts or any other form of arbitration until 21 days after the parties have failed to reach a binding settlement by mediation (at which point the Dispute Resolution Procedure shall be deemed to be exhausted).

## If, with the assistance of the mediator, the parties reach a settlement, such settlement shall be reduced to writing and, once signed by the duly Authorised Representative of each of the parties, shall remain binding on the parties.

## The parties shall bear their own legal costs of this Dispute Resolution Procedure, but the costs and expenses of mediation shall be borne by the parties equally.

## While the Dispute Resolution Procedure referred to in this Condition 25 is in progress and any party has an obligation to make a payment to another party or to allow a credit in respect of such payment, the sum relating to the matter in dispute shall be paid into an interest bearing deposit account to be held in the names of the relevant parties at a clearing bank and such payment shall be a good discharge of the parties’ payment obligations under the Contract. Following resolution of the dispute, whether by mediation or legal proceedings, the sum held in such account shall be payable as determined in accordance with the mediation or legal proceedings, and the interest accrued shall be allocated between the parties pro rata according to the split of the principal sum as between the parties.

# OMBUDSMAN COMPLAINTS

## The Contractor shall take such action as the Council’s Authorised Representative may from time to time require to assist the Council to respond to any complaint relating to the Services which the Local Government Ombudsman (the **Ombudsman**) has referred to the Council.

## The Contractor shall indemnify the Council in respect of any sums the Council is required to pay as a result of a finding of maladministration or where the Council reaches a local settlement in relation to any complaint referred to it by the Ombudsman under condition 26.1.

## The Contractor shall take such action as the Council’s Authorised Representative may from time to time specify to remedy a finding of maladministration or to implement a local settlement which relates to the Services.

# SUB-CONTRACTING AND ASSIGNMENT

## Subject to Condition 27.3, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under the Contract without the prior written consent of the other party, neither may the Contractor sub-contract the whole or any part of its obligations under the Contract except with the express prior written consent of the Council.

## If the Contractor enters into any Sub-Contract in connection with the Contract it shall:

### remain responsible to the Council for the performance of its obligations under the Contract notwithstanding the appointment of any Sub-Contractor and be responsible for the acts omissions and neglects of its Sub-Contractors;

### impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to the Contract and shall procure that the Sub-Contractor complies with such terms; and

### provide a copy, at no charge to the Council, of any such Sub-Contract on receipt of a request for such by the Council’s Authorised Representative.

## The Council shall be entitled to novate the Contract to any other body which substantially performs any of the functions that previously had been performed by the Council.

# LIABILITY

# INDEMNITIES AND INSURANCE

## The Contractor shall indemnify and keep indemnified the Council against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of the Contract, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself or of its employees or of any of its representatives or Sub-Contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of the Contract or applicable law by the Council or its representatives (excluding the Contractor).

## Subject to Condition 28.4, neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with the Contract which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.

## Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to the Contract.

## Notwithstanding any other provision of the Contract neither party limits or excludes its liability for:

### fraud or fraudulent misrepresentation;

### death or personal injury caused by its negligence;

### breach of any obligation as to title implied by statute; or

### any other act or omission, liability for which may not be limited under any applicable law.

## The Contractor shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing as a minimum the following levels of cover:

### [public liability insurance with a limit of indemnity of not less than [£5,000,000] in relation to any one claim or series of claims;]

### [employer’s liability insurance with a limit of indemnity of not less than [£10,000,000] in relation to any one claim or series of claims;]

### [professional indemnity insurance with a limit of indemnity of not less than £[2,000,000] in relation to any one claim or series of claims and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover;]

### [product liability insurance with a limit of indemnity of not less than £[1,000,000] in relation to any one claim or series of claims,]]

(together, the Required Insurances).

## The cover under the Required Insurances shall be in respect of all risks which may be incurred by the Contractor, arising out of the Contractor’s performance of the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor.

## The Contractor shall give the Council, on request, copies of all insurance policies referred to in this Condition or a broker’s verification of insurance to demonstrate that the Required Insurances are in place, together with receipts or other evidence of payment of the latest premiums due under those policies.

## If, for whatever reason, the Contractor fails to give effect to and maintain the Required Insurances, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

## The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract

## The Contractor shall hold and maintain the Required Insurances for a minimum of [six] years following the expiration or earlier termination of the Contract.

# INFORMATION

# FREEDOM OF INFORMATION

## The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the EIR and shall assist and co-operate with the Council (at the Contractor’s expense) to enable the Council to comply with these information disclosure requirements.

## The Contractor shall and shall procure that its Sub-Contractors shall:

### transfer the Request for Information to the Council as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;

### provide the Council with a copy of all Information in its possession or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council requesting that Information; and

### provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIR.

## The Council shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other Information:

### is exempt from disclosure in accordance with the provisions of the FOIA or the EIR; and/or

### is to be disclosed in response to a Request for Information.

## In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.

## The Contractor acknowledges that the Council may, acting in accordance with the Secretary of State for Constitutional Affairs’ Code of Practice on the discharge of public authorities’ functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the EIR to disclose Information:

### without consulting with the Contractor; or

### following consultation with the Contractor and having taken its views into account,

provided always that where Condition 29.5(a) applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor’s attention after any such disclosure.

## The Contractor shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.

## The Contractor acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with Condition 29.5.

# DATA PROTECTION

## The parties shall comply with Schedule 12.

# CONFIDENTIALITY

## Subject to Condition 31.2, the parties shall keep confidential all matters relating to the Contract and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.

## Condition 31.1 shall not apply to any disclosure of information:

### required by any applicable law, provided that Condition 29 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;

### that is reasonably required by persons engaged by a party in the performance of such party’s obligations under the Contract;

### where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of Condition 31.1;

### by the Council of any document to which it is a party and which the parties to the Contract have agreed contains no commercially sensitive information;

### to enable a determination to be made under Condition 25;

### which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

### by the Council to any Crown Body; and

### by the Council relating to the Contract and in respect of which the Contractor has given its prior written consent to disclosure.

## On or before the Termination Date the Contractor shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Council’s employees, rate-payers or service users, are delivered up to the Council or securely destroyed.

# AUDIT

## During the Term and for a period of 6 (six) years after the Termination Date, the Council may conduct or be subject to an audit for the following purposes:

### to verify the accuracy of Charges (and proposed or actual variations to them in accordance with the Contract) and/or the costs of all Contractors (including Sub-Contractors) of the Services;

### to review the integrity, confidentiality and security of any data relating to the Council or any service users;

### to review the Contractor’s compliance with the Data Protection Laws and the FOIA, in accordance with Condition 30 (Data Protection) and Condition 29 (Freedom of Information) and any other legislation applicable to the Services;

### to review any records created during the provision of the Services;

### to review any books of account kept by the Contractor in connection with the provision of the Services;

### to carry out the audit and certification of the Council’s accounts;

### to carry out an examination of the economy, efficiency and effectiveness with which the Council has used its resources;

### to verify the accuracy and completeness of the Management Reports delivered or required by these Conditions.

## Except where an audit is imposed on the Council by a regulatory body, the Council may not conduct an audit under this Condition 32 more than twice in any calendar year.

## The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.

## Subject to the Council’s obligations of confidentiality, the Contractor shall on demand provide the Council and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

### all information requested by the above persons within the permitted scope of the audit;

### reasonable access to any sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services; and

### access to the Contractor’s Personnel.

## The Council shall endeavour to (but is not obliged to) provide at least 15 days notice of its or, where possible, a regulatory body’s, intention to conduct an audit.

## The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Condition 32, unless the audit identifies a material failure to perform its obligations under the Contract in any material manner by the Contractor in which case the Contractor shall reimburse the Council for all the Council’s reasonable costs incurred in the course of the audit.

## If an audit identifies that:

### the Contractor has failed to perform its obligations under the Contract in any material manner, the parties shall agree and implement a remedial plan. If the Contractor’s failure relates to a failure to provide any information to the Council about the Charges, proposed Charges or the Contractor’s costs, then the remedial plan shall include a requirement for the provision of all such information;

### the Council has overpaid any Charges, the Contractor shall pay to the Council the amount overpaid within twenty days. The Council may deduct the relevant amount from the Charges if the Contractor fails to make this payment; and

### the Council has underpaid any Charges, the Council shall pay to the Contractor the amount of the under-payment less the cost of audit incurred by the Council if this was due to a default by the Contractor in relation to invoicing within 30 days.

# INTELLECTUAL PROPERTY

## In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Contractor or any employee, agent or subcontractor of the Contractor:

### in the course of performing the Services; or

### exclusively for the purpose of performing the Services,

shall vest in the Council on creation.

## The Contractor shall, promptly at the Council’s request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Council may from time to time require for the purpose of securing for the Council the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property vested in the Council under Condition 33.1.

## The Contractor shall obtain waivers of any moral rights in Intellectual Property vested in the Council under Condition 33.1 to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

## The Contractor shall indemnify the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement and whether or not under English Law) of any Intellectual Property by the availability of the Services, except to the extent that they have been caused by or contributed to by the Council’s acts or omissions.

# TERMINATION

# TERMINATION FOR BREACH

## The Council may terminate the Contract in whole or in part with immediate effect by the service of written notice on the Contractor in the following circumstances:

#### if the Contractor is in breach of any material obligation under the Contract provided that if the breach is capable of remedy, the Council may only terminate the Contract under this Condition 34.1 if the Contractor has failed to remedy such breach within [28 days] of receipt of notice from the Council (a **Remediation Notice**) to do so;

#### if a Consistent Failure has occurred;

#### if a Catastrophic Failure has occurred;

#### if a resolution is passed or an order is made for the winding up of the Contractor (otherwise than for the purpose of solvent amalgamation or reconstruction) or the Contractor becomes subject to an administration order or a receiver or administrative receiver is appointed over or an encumbrancer takes possession of any of the Contractor’s property or equipment;

#### if the Contractor ceases or threatens to cease to carry on business in the United Kingdom;

#### if there is a change of control (as defined in section 1124 of the Corporation Tax Act 2010) of the Contractor to which the Council reasonably objects;

#### [this agreement has been subject to a substantial variation which would have required a new procurement procedure in accordance with regulation 72(9) of the Public Contracts Regulations 2015;

#### the Contractor was, at the time when this agreement was awarded, in one of the situations referred to in regulation 57(1) of the Public Contracts Regulations 2015, including as a result of the application of regulation 57(2), and therefore should not have been awarded this agreement;

#### any competent court makes an award for ineffectiveness of this agreement under the Public Contracts Regulations 2015; or

#### this agreement should not have been awarded to the Contractor in view of a serious infringement of the obligations of the Treaty on European Union, the TFEU or the Public Contracts Directive 2014 hat has been declared by the Court of Justice of the European Union under a procedure under Article 258 of TFEU.]

[**DN: These last 4 sub-clauses can be removed if the services contract is below threshold**]

## The Council may terminate the Contract in accordance with the provisions of Condition 35, Condition 36, Condition 37, and Condition 38.

## Without prejudice to any other right or remedy that the Council may have under the Contract, if the Council considers the Contractor is in breach of its obligations under Condition 18 then the Council will follow the Safeguarding Suspension/Termination Procedure.

## If the Contract is terminated by the Council for cause such termination shall be at no loss or cost to the Council and the Contractor indemnifies the Council against any such losses or costs which the Council may suffer as a result of any such termination for cause.

## The rights of the Council under this Condition 34 are in addition to and without prejudice to any other rights the Council may have whether against the Contractor directly under the Contract, the Guarantee or the Bond, or at law.

## The Contractor may terminate the Contract in the event that the Council commits a Termination Payment Default by giving 30 days’ written notice to the Council. If the Council remedies the Termination Payment Default in the 30 day notice period, the Contractor’s notice to terminate the Contract shall be deemed to have been withdrawn.

# TERMINATION ON NOTICE

Without affecting any other right or remedy available to it, the Council may terminate the Contract in part or in whole, at any time by giving three months’ written notice to the Contractor.

# UNFORESEEN EVENTS

## Subject to the remaining provisions of this Condition 36, neither party to the Contract shall be liable to the other for any delay or non-performance of its obligations under the Contract to the extent that such non-performance is due to an Unforeseen Event.

## If either party is delayed or prevented from performing its obligations under the Contract by an Unforeseen Event, such party shall:

### give notice in writing of such delay or prevention to the other party as soon as reasonably possible, stating the commencement date and extent of such delay or prevention, the cause of the delay or prevention and its estimated duration;

### use all reasonable endeavours to mitigate the effects of such delay or prevention on the performance of its obligations under the Contract; and

### resume performance of its obligations as soon as reasonably possible after the removal of the cause of the delay or prevention.

## A party cannot claim relief if the Unforeseen Event is attributable to that party’s wilful act, neglect or failure to take reasonable precautions against the relevant Unforeseen Event.

## The Contractor cannot claim relief if the Unforeseen Event is one which a reasonable service provider should have foreseen and provided for the cause in question.

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

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

## The Council may, during the continuance of any Unforeseen Event, terminate the Contract by written notice to the Contractor if an Unforeseen Event occurs that affects all or a substantial part of the Services and which continues for more than 40 (forty) Working Days.

# PREVENTION OF BRIBERY

## The Contractor:

### shall not, and shall procure that any Contractor Party and all Contractor Personnel shall not, in connection with this Contract commit a Prohibited Act;

### warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of the Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of the Contract.

## The Contractor shall:

### if requested, provide the Council with any reasonable assistance, at the Council’s reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

### within 20 (twenty) Working Days of the Commencement Date, and annually thereafter, certify to the Council in writing (such certification to be signed by an officer of the Contractor) compliance with this Condition 37 by the Contractor and all persons associated with it or other persons who are supplying goods or services in connection with the Contract. The Contractor shall provide such supporting evidence of compliance as the Council may reasonably request.

## The Contractor shall have an anti-bribery policy (which shall be disclosed to the Council) to prevent any Contractor Party or Contractor Personnel from committing a Prohibited Act and shall enforce it where appropriate.

## If any breach of Condition 37.1 is suspected or known, the Contractor must notify the Council immediately.

## If the Contractor notifies the Council that it suspects or knows that there may be a breach of Condition 37.1, the Contractor must respond promptly to the Council’s enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for 6 (six) years following the expiry or termination of the Contract.

## The Council may terminate the Contract by written notice with immediate effect if the Contractor, Contractor Party or Contractor Personnel (in all cases whether or not acting with the Contractor’s knowledge) breaches Condition 37.1. In determining whether to exercise the right of termination under this Condition 37.6, the Council shall give all due consideration, where appropriate, to action other than termination of the Contract unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or Contractor not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:

### with the authority; or,

### with the actual knowledge;

### of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or

### in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge.

## Any notice of termination under Condition 37.6 must specify:

### the nature of the Prohibited Act;

### the identity of the party whom the Council believes has committed the Prohibited Act; and

### the date on which the Contract will terminate.

## Despite Condition 25 (Dispute resolution), the Council shall determine (and its decisions shall be final and conclusive) any dispute relating to:

### the interpretation of Condition 37; or

### the amount or value of any gift, consideration or commission.

## Any termination under Condition 37.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

# ANTI-SLAVERY AND HUMAN TRAFFICKING LAWS AND POLICIES

## In performing its obligations under the agreement, the Contractor shall:

### comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015;

### comply with the Anti-Slavery Policy;

### not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK; and

### include in its contracts with its direct Sub-Contractors and suppliers anti-slavery and human trafficking provisions that are at least as onerous as those set out in this Condition 38.

## The Contractor shall indemnify the Council against any losses incurred by, or awarded against, the Council as a result of any breach of the Anti-slavery Policy or the Modern Slavery Act 2015.

## The Council may terminate this agreement with immediate effect by giving written notice to the Contractor if the Contractor commits a breach of the Anti-Slavery Policy or the Modern Slavery Act 2015.

# CONSEQUENCES OF TERMINATION

## On the expiry of the Term or if the Contract is terminated in whole or in part for any reason the provisions of the Exit Management Plan shall come into effect and the Contractor shall co-operate fully with the Council to ensure an orderly migration of the Services to the Council or, at the Council’s request, a Replacement Contractor.

## On termination of the Contract and on satisfactory completion of the Exit Management Plan (or where reasonably so required by the Council before such completion) the Contractor shall procure that all data and other material belonging to the Council (and all media of any nature containing information and data belonging to the Council or relating to the Services), shall be delivered to the Council immediately and the Contractor’s [Authorised Representative or Chief Executive Officer] shall certify full compliance with this Condition.

## The provisions of Condition 7.3 (provision of records), Condition 28 (Indemnities and Insurance), Condition 29 (Freedom of Information), Condition 30 (Data Protection), Condition 31 (Confidentiality), Condition 32 (Audit), Condition 34 (Termination for Breach) and this Condition 39 (Consequences of termination) shall survive termination or expiry of the Contract.

# GENERAL PROVISIONS

# NON-SOLICITATION

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

# WAIVER

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

# CUMULATION OF REMEDIES

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

# SEVERABILITY

If any of the provisions of the Contract is judged to be illegal or unenforceable, the continuation in full force and effect of the remainder of them will not be prejudiced.

# PARTNERSHIP OR AGENCY

Nothing in the Contract shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of the Contract.

# THIRD PARTY RIGHTS

No term of the Contract is intended to confer a benefit on, or to be enforceable by, any person who is not a party to the Contract (other than a successor to or a permitted assignee of a party to the Contract).

# PUBLICITY

The Contractor shall not:

### (make any press announcements or publicise the Contract or its contents in any way; or

### use the Council’s name or brand in any promotion or marketing or announcement of orders,

without the prior written consent of the Council.

# NOTICES

Any notice to a party under or in connection with this Contract shall be in writing, and shall be sent to the other party marked for the attention of the person at the address set out for such party in the Contract. Notices may be sent by first-class mail or facsimile transmission provided that facsimile transmissions are confirmed within [24 hours] by first-class mailed confirmation of a copy. Correctly addressed notices sent by first-class mail shall be deemed to have been delivered 72 hours after posting and correctly directed facsimile transmissions shall be deemed to have been received instantaneously on transmission provided that they are confirmed as set out above.

# ENTIRE AGREEMENT

The Contract Documents, the schedules and the documents annexed to it or otherwise referred to in it [AND REFER TO ANY OTHER NECESSARY DOCUMENTS OR REPRESENTATIONS] contain the whole agreement between the parties relating to the subject matter of the Contract and supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

# COUNTERPARTS

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

# GOVERNING LAW AND JURISDICTION

## The Contract and any dispute or claim arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales.

## The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with the Contract or its subject matter, or formation.

Schedule 1 Council Policies

Schedule 2 Service levels

Part 1. Service Levels

1. THE SERVICE LEVELS

|  |  |  |
| --- | --- | --- |
| **Service** | **Method of calculating service delivery** | **Service level** |
|  |  |  |
|  |  |  |
|  |  |  |

1. CONSISTENT FAILURE
   1. In the Contract, consistent failure shall mean:
      1. [a failure rate of at least [INSERT NUMBER]% in meeting:
         1. [[INSERT NUMBER] or more of the Service Levels labelled ["Red"] in a rolling [INSERT NUMBER] month period; or
         2. [INSERT NUMBER] or more Service Levels labelled ["Green"] in a rolling [INSERT NUMBER] month period.]

**OR**

* + - 1. [[INSERT NUMBER] or more Service Levels in a rolling [INSERT NUMBER] month period.]]

**[AND/OR]**

* + 1. [the Contractor being liable to pay £[INSERT FIGURE] to the Council in Service Credits in respect of [two consecutive months].]

[**AND/OR**]

* + 1. [the Council serving [INSERT NUMBER] Remediation Notices in a rolling [INSERT NUMBER] month period or [INSERT NUMBER] Default Notices in a rolling [INSERT NUMBER] period.]

Part 2. Service credits

Schedule 3 Charges and Payment

1. CHARGES BASED ON A FIXED PRICE

|  |  |
| --- | --- |
| **Service** | **Monthly cost (£)** |
| [INSERT RELEVANT PART OF SERVICES] | [INSERT FIGURE TO BE CHARGED TO COUNCIL] |
| [INSERT RELEVANT PART OF SERVICES] | [INSERT FIGURE TO BE CHARGED TO COUNCIL] |
| [INSERT RELEVANT PART OF SERVICES] | [INSERT FIGURE TO BE CHARGED TO COUNCIL] |
| TOTAL | [INSERT FIGURE TO BE CHARGED TO COUNCIL] |

1. CHARGES BASED ON HOURLY RATES

|  |  |
| --- | --- |
| **Hours of service in invoice period** | **Hourly rate (£)** |
| [Up to 100] | [INSERT FIGURE PER HOUR TO BE CHARGED TO COUNCIL] |
| [101-200] | [INSERT FIGURE PER HOUR TO BE CHARGED TO COUNCIL] |
| [201-300] | [INSERT FIGURE PER HOUR TO BE CHARGED TO COUNCIL] |

1. PAYMENT TRIGGERED BY MEETING MILESTONES

|  |  |  |  |
| --- | --- | --- | --- |
| **Workstream** | **Milestone** | **Date completion expected** | **Charge payable on completion (£)** |
| [INSERT] | [INSERT DETAILS] | [INSERT DATE] | [INSERT FIGURE] |
| [INSERT] | [INSERT DETAILS] | [INSERT DATE] | [INSERT FIGURE] |
| [INSERT] | [INSERT DETAILS] | [INSERT DATE] | [INSERT FIGURE] |

1. MENU PRICING

|  |  |
| --- | --- |
| **Type of Fixed Cost** | **Charges (£)** |
| [INSERT TYPE OF SERVICE TO BE PROVIDED] | [INSERT FIGURE (EXPRESSED AS UNIT COST OR HOURLY RATE) TO BE CHARGED TO COUNCIL FOR THAT SERVICE] |
| [INSERT TYPE OF SERVICE OR GOODS TO BE PROVIDED] | [INSERT FIGURE (EXPRESSED AS UNIT COST OR HOURLY RATE) TO BE CHARGED TO COUNCIL FOR THAT SERVICE] |
| [INSERT TYPE OF SERVICE OR GOODS TO BE PROVIDED] | [INSERT FIGURE (EXPRESSED AS UNIT COST OR HOURLY RATE) TO BE CHARGED TO COUNCIL FOR THAT SERVICE] |
| [INSERT TYPE OF SERVICE OR GOODS TO BE PROVIDED] | [INSERT FIGURE (EXPRESSED AS UNIT COST OR HOURLY RATE) TO BE CHARGED TO COUNCIL FOR THAT SERVICE] |

Schedule 4 Contract management

1. AUTHORISED REPRESENTATIVES
   1. The Council’s initial Authorised Representative: [INSERT DETAILS]
   2. The Contractor’s initial Authorised Representative: [INSERT DETAILS]
2. KEY PERSONNEL

[INSERT DETAILS]

1. MEETINGS
   1. Type
   2. Quorum
   3. Frequency
   4. Agenda
2. REPORTS
   1. Type
   2. Contents
   3. Frequency
   4. Circulation list

Schedule 5 Disaster recovery

Schedule 6 Change control

1. **GENERAL PRINCIPLES**
   1. Where the Council or the Contractor sees a need to change the Contract, the Council may at any time request, and the Contractor may at any time recommend, such Change only in accordance with the Change Control Procedure set out in paragraph 2 of this Schedule 6.
   2. Until such time as a Change is made in accordance with the Change Control Procedure, the Council and the Contractor shall, unless otherwise agreed in writing, continue to perform the Contract in compliance with its terms before such Change.
   3. Any discussions which may take place between the Council and the Contractor in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
   4. Any work undertaken by the Contractor and the Contractor’s Personnel which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Schedule 6, shall be undertaken entirely at the expense and liability of the Contractor.
2. **PROCEDURE**
   1. Discussion between the Council and the Contractor concerning a Change shall result in any one of the following:
      1. no further action being taken; or
      2. a request to change the Contract by the Council; or
      3. a recommendation to change the Contract by the Contractor.
   2. Where a written request for an amendment is received from the Council, the Contractor shall, unless otherwise agreed, submit two copies of a change control note (**Change Control Note**) signed by the Contractor to the Council within three weeks of the date of the request.
   3. A recommendation to amend the Contract by the Contractor shall be submitted directly to the Council in the form of two copies of a Change Control Note signed by the Contractor at the time of such recommendation. The Council shall give its response to the Change Control Note within three weeks.
   4. Each Change Control Note shall contain:
      1. the title of the Change;
      2. the originator and date of the request or recommendation for the Change;
      3. the reason for the Change;
      4. full details of the Change, including any specifications;
      5. the price, if any, of the Change;
      6. a timetable for implementation, together with any proposals for acceptance of the Change;
      7. a schedule of payments if appropriate;
      8. details of the likely impact, if any, of the Change on other aspects of the Contract including:
         1. the timetable for the provision of the Change;
         2. the personnel to be provided;
         3. the Charges;
         4. the Documentation to be provided;
         5. the training to be provided;
         6. working arrangements;
         7. other contractual issues;
         8. the date of expiry of validity of the Change Control Note; and
         9. provision for signature by the Council and the Contractor.
   5. For each Change Control Note submitted by the Contractor the Council shall, within the period of the validity of the Change Control Note:
      1. allocate a sequential number to the Change Control Note; and
      2. evaluate the Change Control Note and, as appropriate:
         1. request further information;
         2. arrange for two copies of the Change Control Note to be signed by or on behalf of the Council and return one of the copies to the Contractor; or
         3. notify the Contractor of the rejection of the Change Control Note.
   6. A Change Control Note signed by the Council and by the Contractor shall constitute an amendment to the Contract.

Schedule 7 Exit Management Plan

**Exit Management Plan**

1. **GENERAL OBLIGATION**

On termination or expiry of the Contract for any reason, the Contractor will provide all reasonable assistance to the Council to facilitate the orderly transfer of the Services back to the Council or to enable another party chosen by the Council (in this Schedule, a **New Contractor**) to take over the provision of all or part of the Services. The remaining provisions of this Schedule will not prejudice or restrict the generality of this obligation.

1. **PLANS AND PROCEDURES**

The Contractor will produce and maintain plans and procedures demonstrating the manner in which it will fulfil its obligations under this Schedule, which plans and procedures shall be subject to the reasonable approval of the Council from time to time.

1. **CONTINUATION OF THE PROVISION OF SERVICES**

The Council shall be entitled to require the Contractor to continue to provide the Services for three months after termination of the Contract upon the same payment terms if, in the opinion of the Council, such continuation is required in order to allow for the orderly transfer of the Services to the Council or a New Contractor.

1. **DUTY TO DOCUMENT THE SERVICES**
   1. The Contractor shall prepare a description of the Services, technical specifications, user manuals, operating manuals, process definitions and procedures, all as required by the Council or any service provider to provide the Services, or services equivalent to the Services, on termination of the Contract (the **Documentation**)within three months of the Commencement Date and shall after that ensure that it is kept up to date.
   2. The Contractor shall promptly and fully answer all reasonable questions about the Services which may be asked by the Council for the purpose of adequately understanding the manner in which the Services have been provided or for the purpose of allowing any New Contractor (or potential New Contractor) to conduct ‘due diligence’.
2. **EQUIPMENT**

Where the Services provided to the Council are dependent on equipment which is not owned by the Council, the Contractor will ensure the necessary migration of programs, data and other materials from such equipment to similar equipment owned by the Council or a New Contractor. Implementation of the change shall be carried out by the Contractor in such a way as to cause the minimum possible disruption to the supply of the Services.

1. **CONTRACTS, SOFTWARE, AND KNOW-HOW**
   1. Upon the Contractor ceasing to provide the Services its rights and obligations in respect of the Contract shall cease (but without prejudice to any liability accrued at the date of such cessation). Where the Contractor has entered into Sub-Contracts for the sole purpose of providing the Services to the Council, the Council may require the Contractor to use all reasonable endeavours to procure that those Sub-Contracts are assigned to the Council or a New Contractor.
   2. The Contractor shall, to the extent that it has not done so prior to termination, fully comply with the provisions of the Contract as to the licensing of Intellectual Property and the delivery of Documentation.
   3. The Council shall be entitled to use (and to authorise any New Contractor to use), free of charge but on a non-exclusive basis, all know-how and other information acquired by the Contractor in the course of providing the Services or otherwise used by the Contractor in the provision of the Services, whether or not such know-how or information was produced specifically or used exclusively to provide the Services.
2. **PREMISES**

All rights of access and occupation granted to the Contractor in respect of the Premises will cease when the provision of Services ceases in accordance with the Contract.

1. **PERSONNEL**

The parties acknowledge and agree that where all or part of the Services cease to be provided by the Contractor for any reason and where all or part of the Services continue to be provided by the Council and/or the New Contractor, there may be a Relevant Transfer and in which case the provisions of Condition 19 and Schedule 8 shall apply.

Schedule 8 TUPE

Part 1. Transfer of employees

1. **DEFINITIONS**

The definitions in this paragraph apply in this schedule:

Administering Authority: means Mayor and Burgesses of the London Borough of Croydon acting in its capacity as the administering authority of the Pension Fund for the purposes of the LGPS.

Admission Agreement: the agreement in the form set out in Part 3 of this Schedule 8 to be entered into in accordance with regulation 3 of the Local Government Pension Scheme Regulations 2013, as amended, by [the administering authority,] the Council and the Contractor or Sub-Contractor, as appropriate.

Appropriate Pension Provision: in respect of Eligible Employees, either:

* + - 1. membership, continued membership or continued eligibility for membership of the pension scheme of which they were members, or were eligible to be members, or were in a waiting period to become a member of, prior to the Relevant Transfer; or
      2. pension scheme, which is certified by the Government Actuary’s Department (**GAD**) as being broadly comparable to the terms of the pension scheme of which they were, or were eligible to be, members.

Bond: the bond to be executed in the [Council’s standard form/ in the form set out in Part 3 of this Schedule 8] to the value of [VALUE] under paragraph 5.3 .

Cessation Date: any date on which the Contractor or any Sub-Contractor (as appropriate) ceases to be an Admission Body other than as a result of the termination of this Agreement or because it ceases to employ any Eligible Employees.

Effective Date: the date(s) on which the Services (or any part of the Services) transfer from the Council or any Third Party Employer to the Contractor or Sub-contractor, and a reference to Effective Date shall be deemed to be the date on which the employees in question transferred or will transfer to the Contractor or Sub-contractor.

Eligible Employees: the Transferring Employees [or employees of Third Party Employers] who are active members of (or are eligible to join) the LGPS on the date of a Relevant Transfer including the Effective Date.

Employee Liability Information: the information that a transferor is obliged to notify to a transferee under Regulation 11(2) of TUPE:

1. the identity and age of the employee; and
2. the employee’s written statement of employment particulars (as required under section 1 of the Employment Rights 1996); and
3. information about any disciplinary action taken against the employee and any grievances raised by the employee, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes applied, within the previous two years; and
4. information about any court or tribunal case, claim or action either brought by the employee against the transferor within the previous two years or where the transferor has reasonable grounds to believe that such action may be brought against the Contractor arising out of the employee’s employment with the transferor; and
5. information about any collective agreement that will have effect after the Effective Date or the Service Transfer Date, as the case may be, in relation to the employee under regulation 5(a) of TUPE.

Employment Liabilities: all claims, including claims for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy or maternity, or sexual orientation discrimination, claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims (whether in tort, contract, statute or otherwise), demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body), and of implementing any requirements which may arise from such investigation, and any legal costs and expenses.

Fund: the London Borough of Croydon pension fund within the LGPS

LGPS: Local Government Pension Scheme.

LGPS Regulations: the Local Government Pension Scheme Regulations 2013 SI2013/2356 as amended and replaced from time to time

Redundancy Costs: statutory redundancy payments, contractual redundancy payments and contractual notice pay payable by the Contractor to the Redundant Transferring Employees, but excluding any payments or liabilities arising from any claim as to the fairness of the dismissal and/or unlawful discrimination.

Relevant Transfer Date: the Effective Date or, if the Relevant Transfer occurs after the Effective Date, from and including the date of that Relevant Transfer

Redundant Transferring Employees: Transferring Employees whom the Contractor has dismissed following a lawful redundancy within [NUMBER] months of the Effective Date.

Relevant Employees: those employees whose contracts of employment transfer with effect from the Service Transfer Date to the Council or a Replacement Contractor by virtue of the application of TUPE.

Contractor’s Final Staff List: the list of all the Contractor’s [and Sub-Contractor’s] personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the Service Transfer Date.

Contractor’s Provisional Staff List: the list prepared and updated by the Contractor of all the Contractor’s [and Sub-Contractor’s] personnel engaged in, or wholly or mainly assigned to, the provision of the Services or any part of the Services at the date of the preparation of the list.

Service Transfer Date: the date on which the Services (or any part of the Services), transfer from the Contractor or Sub-contractor to the Council or any Replacement Contractor.

Staffing Information: in relation to all persons detailed on the Contractor’s Provisional Staff List, in an anonymised format, such information as the Council may reasonably request including the Employee Liability Information and details of whether the personnel are employees, workers, self-employed, contractors or consultants, agency workers or otherwise, and the amount of time spent on the provision of the Services.

Third Party Employee: employees of Third Party Employers whose contract of employment transfer with effect from the Effective Date to the Contractor or Sub-contractor by virtue of the application of TUPE [as listed in Part 2 of this Schedule 8].

Third Party Employer: a service provider engaged by the Council to provide [some of the] Services to the Council and whose employees will transfer to the Contractor on the Effective Date.

Transferring Employees: employees of the Council whose contracts of employment transfer with effect from the Effective Date to the Contractor by virtue of the application of TUPE [as listed in Part 2 of this Schedule 8].

1. **TRANSFER OF EMPLOYEES TO THE CONTRACTOR**
   1. The Council and the Contractor agree that where the identity of the provider of any of the Services changes, this shall constitute a Relevant Transfer and the contracts of employment of any Transferring Employees [and Third Party Employees] shall transfer to the Contractor or Sub-contractor. The Contractor shall comply and shall procure that each Sub-Contractor shall comply with their obligations under TUPE. The [first] Relevant Transfer shall occur on the Effective Date.
   2. The Council shall be responsible for all remuneration, benefits, entitlements and outgoings in respect of the Transferring Employees, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and otherwise, up to the Effective Date. The Council shall provide and, where necessary, update the Employee Liability Information for the Transferring Employees to the Contractor, as required by TUPE. The Council shall warrant that such information is complete and accurate as it is aware or should reasonably have been aware as at the date it is disclosed.
   3. Subject to paragraph 2.4, the Council shall indemnify [and keep indemnified] the Contractor against any losses, except indirect losses incurred by the Contractor or any relevant Sub-Contractor in connection with any claim or demand by any Transferring Employee arising out of the employment of any Transferring Employee. This indemnity shall apply provided that it arises from any act, fault or omission of the Council in relation to any Transferring Employee prior to the Effective Date (except where such act, fault or omission arises as a result of the Contractor or any relevant Sub-Contractor’s failure to comply with regulation 13 of TUPE) and any such claim is not in connection with the transfer of the Services by virtue of TUPE on the Effective Date.
   4. The Contractor shall be liable for and indemnify and keep indemnified the Council [and any Third Party Employer] against Employment Liabilities arising from or as a consequence of:
      1. any proposed changes to terms and conditions of employment the Contractor or Sub-Contractor may consider taking on or after the Effective Date;
      2. any of the employees informing the Council [and any Third Party Employer] they object to being employed by the Contractor or Sub-Contractor; and
      3. any change in identity of the Transferring Employees’ [and Third Party Employees’] employer as a result of the operation of TUPE or as a result of any proposed measures the Contractor or Sub-Contractor may consider taking on or after the Commencement Date.
   5. The Contractor shall be liable for and indemnify and keep indemnified the Council [and any Third Party Employer] against any failure to meet all remuneration, benefits, entitlements and outgoings for the Transferring Employees[, the Third Party Employees,] and any other person who is or will be employed or engaged by the Contractor or any Sub-Contractor in connection with the provision of the Services, including without limitation, all wages, holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions, pension contributions and otherwise from and including the Effective Date.
   6. The Contractor shall immediately on request by the Council [and/or the Third Party Employer] provide details of any measures that the Contractor or any Sub-Contractor of the Contractor envisages it will take in relation to any Transferring Employees [and the employees of any Third Party Employer] including any proposed changes to terms and conditions of employment. If there are no measures, the Contractor shall give confirmation of that fact, and shall indemnify the Council [and any Third Party Employer] against all Employment Liabilities resulting from any failure by it to comply with this obligation.
2. **EMPLOYMENT EXIT PROVISIONS**
   1. This agreement envisages that subsequent to its commencement, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination of the Contract, or part or otherwise) resulting in a transfer of the Services in whole or in part (**Subsequent Transfer**). If a Subsequent Transfer is a Relevant Transfer then the Council or Replacement Contractor will inherit liabilities in respect of the Relevant Employees with effect from the relevant Service Transfer Date.
   2. The Contractor shall [and shall procure that any Sub-Contractor shall] on receiving notice of termination of the Contract or otherwise, on request from the Council and at such times as required by TUPE, provide in respect of any person engaged or employed by the Contractor or any Sub-Contractor in the provision of the Services, the Contractor’s Provisional Staff List and the Staffing Information together with any additional information required by the Council, including information as to the application of TUPE to the employees. The Contractor shall notify the Council of any material changes to this information as and when they occur.
   3. At least 14 days prior to the Service Transfer Date, the Contractor shall [and shall procure that any Sub-Contractor shall] prepare and provide to the Council and/or, at the direction of the Council, to the Replacement Contractor, the Contractor’s Final Staff List, which shall be complete and accurate in all material respects. The Contractor’s Final Staff List shall identify which of the Contractor’s and Sub-Contractor’s personnel named are Relevant Employees.
   4. The Council shall be permitted to use and disclose the Contractor’s Provisional Staff List, the Contractor’s Final Staff List and the Staffing Information for informing any tenderer or other prospective Replacement Contractor for any services that are substantially the same type of services as (or any part of) the Services.
   5. The Contractor warrants that the Contractor’s Provisional Staff List, the Contractor’s Final Staff List and the Staffing Information (**TUPE Information**) will be true and accurate in all material respects and that no persons are employed or engaged in the provision of the Services other than those included on the Contractor’s Final Staff List.
   6. The Contractor shall [and shall procure that any Sub-Contractor shall] ensure at all times that it has the right to provide the TUPE Information under Data Protection Laws.
   7. Any change to the TUPE Information which would increase the total employment costs of the staff in the [six] months prior to termination of the Contract shall not (so far as reasonably practicable) take place without the Council’s prior written consent, unless such changes are required by law. The Contractor shall and shall procure that any Sub-Contractor shall supply to the Council full particulars of such proposed changes and the Council shall be afforded reasonable time to consider them.
   8. The Contractor shall indemnify and keep indemnified in full the Council [and at the Council’s request each and every Replacement Contractor] against all Employment Liabilities relating to:
      1. any person who is or has been employed or engaged by the Contractor or any Sub-Contractor in connection with the provision of any of the Services; or
      2. any trade union or staff association or employee representative (where such claim arises as a result of any act, fault or omission of the Contractor and/or any Sub-Contractor),

arising from or connected with any failure by the Contractor and/or any Sub-Contractor to comply with any legal obligation, whether under regulation 13 or 14 of TUPE or any award of compensation under regulation 15 of TUPE, under the Acquired Rights Directive or otherwise and, whether any such claim arises or has its origin before or after the Service Transfer Date.

* 1. The parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer as a consequence of a Subsequent Transfer will be fulfilled.
  2. The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to paragraph 3.1 to paragraph 3.8, to the extent necessary to ensure that any Replacement Contractor shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Contractor by the Contractor or the Council in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.
  3. Despite paragraph 3.10, it is expressly agreed that the parties may by agreement rescind or vary any terms of this contract without the consent of any other person who has the right to enforce its terms or the term in question despite that such rescission or variation may extinguish or alter that person’s entitlement under that right.

1. **PENSIONS**
   1. The Contractor shall or shall procure that any relevant Sub-Contractor shall ensure that all Eligible Employees are offered Appropriate Pension Provision with effect from the Effective Date up to and including the date of the termination or expiry of the Contract.
   2. The provisions of paragraph 4 and paragraph 5 of this Schedule shall be directly enforceable by an affected employee against the Contractor or any relevant Sub-contractor.
2. **ADMITTED BODY STATUS TO THE LOCAL GOVERNMENT PENSION SCHEME**
   1. Where the Contractor or Sub-Contractor wishes to offer the Eligible Employees membership of the LGPS, the Contractor shall or shall procure that it and/or each relevant Sub-Contractor shall enter into an Admission Agreement to have effect from and including the Effective Date or, if the Relevant Transfer occurs after the Effective Date, from and including the date of that Relevant Transfer. [The Contractor or Sub-Contractor will bear the cost of any actuarial assessment required in order to assess the employer’s contribution rate [or Bond value] in respect of any Eligible Employee who elects to join the LGPS [on or after] the Effective Date.]
   2. The Contractor shall indemnify and keep indemnified the Council and/or any Replacement Contractor and, in each case, their service providers, from and against all direct losses suffered or incurred by it or them, which arise from any breach by the Contractor or Sub-Contractor of the terms of the Admission Agreement, to the extent that such liability arises before or as a result of the termination or expiry of the Contract.
   3. The Contractor shall and shall procure that it and any Sub-Contractor shall prior to the Effective Date or, if the Relevant Transfer occurs after the Effective Date, from and including the date of that Relevant Transfer, obtain any indemnity or Bond required in accordance with the Admission Agreement. [The format for the bond agreement is attached at Appendix [NUMBER].]
   4. The Contractor shall and shall procure that any relevant Sub-Contractor shall award benefits (where permitted) to the Eligible Employees under the LGPS Regulations in circumstances where the Eligible Employees would have received such benefits had they still been employed by the Council. The Contractor shall be responsible for meeting all costs associated with the award of such benefits.
3. **CONTRACTOR PENSION SCHEME**
   1. [Where the Contractor or Sub-Contractor does not wish to or is otherwise prevented from offering the Eligible Employees membership or continued membership of the LGPS or such other broadly comparable scheme, t][T]he Contractor shall or shall procure that any relevant Sub-Contractor shall offer the Eligible Employees membership of an occupational pension scheme with effect from the Effective Date or, if the Relevant Transfer occurs after the Effective Date, from and including the date of that Relevant Transfer. Such an occupational pension scheme must be:
      1. established no later than [three months] prior to the date of the Relevant Transfer; and
      2. certified by the GAD as providing benefits that are broadly comparable to those provided by the [NAME OF PENSION SCHEME].

and the Contractor shall produce evidence of compliance with this paragraph 6 to the Council prior to the date of the Relevant Transfer. :

The Council’s actuary shall determine the terms for bulk transfers from the [NAME OF PENSION SCHEME] to the Contractor’s scheme following the Effective Date and any subsequent bulk transfers on termination or expiry of the Contract.

Part 2. Transferring and third party employees

|  |  |
| --- | --- |
| **Transferring Employees** | **Third Party Employees** |
|  |  |

Part 3. Admission agreement and Bond [for use in transfers of members of LGPS only]

[INSERT COPIES]

Schedule 9 Commercially sensitive information

[DETAILS OF ANY SERVICE PROVIDER INFORMATION TO BE CLASSIFIED AS COMMERCIALLY SENSITIVE]

Schedule 10

Part 1 - Creation Of Training And Employment Opportunities

1. **DEFINITIONS**
   1. For the purposes of this Schedule 10, the following definitions shall apply:

Apprentice: a person registered as an apprentice and taking a framework which complies with the Specification of Apprenticeship Standards for England.

New Entrant: a person who is: (a) leaving an educational establishment or training provider; (b) a non-employed person that is seeking employment that includes training towards a qualification recognised in the [enter relevant] industry; or (c) a mix of these

Other Trainee: a person who is not an Apprentice or a New Entrant but has a contract of employment or is self-employed and is undergoing work-related training as a result.

Person-Week: the equivalent of one person being employed for five days either on the Contractor’s premises or through a mix of work on the Contractor’s premises and elsewhere

Quarter: a period of thirteen weeks, first such period commencing on the Commencement Date.

Recruitment and Training Method Statement: the statement referred to in paragraph 2.1 and in the form set out in Part 2, Schedule 10.

Targeted Recruitment and Training Performance Statement: the statement which shall be in such form as the Contractor and the Council shall agree.

Trainee: an Apprentice, New Entrant or Other Trainee.

1. **CONTRACTOR’S OBLIGATIONS**
   1. The Contractor shall actively participate in the potential for economic and social regeneration which results from the Contract and shall deliver the requirements set out in the Contractor’s Recruitment and Training Method Statement.
   2. The Recruitment and Training Method Statement may be modified at any time by mutual agreement between the parties in accordance with the provisions of Condition 24.
   3. The Recruitment and Training Method Statement shall include the following outcomes:
      1. a minimum of [78] Person-Weeks of employment to be provided for a Trainee recruited from a source agreed by the Council, for each [£1m] in contract value provided: (i) Apprentices may be counted for up to [104] weeks of employment; and (ii) New Entrants and Other Trainees may be counted for up to [52] weeks of employment;
      2. every vacancy at the sites where the Contractor is to provide the Services, including those with subcontractors, is to be notified to those agencies set out in Part 3 of Schedule 10, and candidates identified by those agencies are to have an equality of opportunity in the selection process;
      3. the equivalent of [5] Person-Weeks per £[1m] in contract value is to be made available as unwaged work experience opportunities. Some of these may not be utilised;
      4. all Trainees shall be paid in accordance with [industry / sector] norms and shall have terms and conditions of employment that are at least equivalent to those provided to staff and employees that have equivalent skills and experience, and the Contractor is encouraged to increase the remuneration of Trainees in line with their experience and productivity in accordance with the practices applied to all other employees of the Contractor;
      5. when requested by the Council, the Contractor shall participate in initiatives to identify and nurture organisations based in or around the area where the Services are to be provided that could contribute to the supply chain;
      6. within four weeks of completion of each Quarter the Contractor shall provide the Client with a Targeted Recruitment and Training Performance Statement setting out in relation to the Quarter and cumulatively for the Contract Period up to the end of the Quarter:
         1. the numbers of weeks’ employment provided to each Trainee;
         2. a schedule showing for the Contractor and each subcontractor: the number of personnel starting on site in the Quarter and cumulatively for the Contract Period up to the end of that Quarter; and, the number of vacancies notified to agencies named by the Council in Part 3, Schedule 10; and the postcodes of all people engaged in providing the Services in any capacity, including the number that have their main residence in one of the following postcode areas [*enter the relevant 3/4 digit postcodes*];
         3. a schedule listing the firms invited to tender or price for subcontracts and supply contracts under paragraph 2.3.6(b) and indicating which of these were successful;
         4. the total value of subcontracts and supplies contracts that have been awarded to firms with a [*enter the relevant 3/4 digit postcode(s)*] postcode;
         5. a trainee recruitment notification signed by the Trainee permitting the provision of personal data to the Council for contract monitoring purposes;
         6. a trainee transfer notification where a Trainee is moved between sites, or between employers engaged in the development; and
         7. a Trainee completion or termination notification.
   4. It is the Contractor’s responsibility to develop a working method that will deliver the targeted recruitment and training requirements and supply-chain opportunities and related monitoring and verification data, and obtain the full cooperation of Sub-Contractors and Contractors in delivering these requirements.
   5. The inclusion of recruitment and training requirements does not comprise or imply any promise on the part of the Council or its agents to provide suitable trainees or labour. Any action taken by these bodies or their agents to broker relationships between the Contractor and local individuals / firms / agencies does not imply that they or their agents consider the individual / firm / agency as suitable for engagement by the Contractor. All recruitment, supervision and discipline responsibilities rest with the Contractor and its subcontractors. Within this context the Council will work with local agencies to help facilitate the achievement of the recruitment and training requirements.

Part 2 - Template Recruitment and Training Method Statement

Title of contract:

Contractor:

Contact name:

Position:

Telephone number(s):

E-mail address:

I confirm that this method statement sets out the actions that will be undertaken to ensure the achievement of the Council’s jobs, skills and supply chain requirements. It is recognised that delivery of these requirements will be a contract condition [and will be assessed as part of the decision to award the contract].

Signed

Print Name

Date

Ensure that information is provided in each of the following sections. This document must be submitted as part of each valid tender. Bidders are recommended to obtain information on training and job-matching resources available within the area from [enter the contact details of suitable providers].

1. **Numbers of New Entrant Trainees**

Please complete Table 1

Table 1 Person-Weeks to be delivered by New Entrant trainees (excluding work placements)

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| Trade / occupation | Total person-weeks and number of trainees | | | | Total trainee weeks – apprentices and others | |
|  | Apprentices | | Other Trainees | |  | |
|  | Person-weeks | Number | Person-weeks | Number | Person-weeks | Number |
|  |  |  |  |  |  |  |
|  |  |  |  |  |  |  |

**Apprentice** is a person registered as an apprentice with an industry recognised body. Each apprentice can be counted as a ‘new entrant’ for up to [enter number] weeks.

**New Entrant** is a person that is leaving an educational establishment (for example, school, college or university) or a training provider, or a non-employed person that is seeking employment that includes on-site training and assessment or offsite training, or a mix of these.

**No.** - enter here the number of trainees that will be recruited to deliver the p/wks.

**Other Trainees** – people that have a trainee contract or a contract of employment or self-employment that are not Apprentices. Each ‘other trainee’ can be counted as a ‘New Entrant’ for up to [enter number] weeks.

**Person-Week** is the equivalent of one person working for 5 days either on site, or through a mix of on-site work and off-site training. To provide continuity of training and employment this can include time on other sites with the agreement of the Employer.

1. **Work Experience Opportunities**

Please show in Table 2 the number of Person-weeks that will be offered as work experience opportunities.

It is understood that, while offered and available, some of these opportunities may not be utilised.

Table 2 Un-waged Work Experience Opportunities

|  |  |
| --- | --- |
| **Occupation/ activity** | **Person-weeks** |
|  |  |
|  |  |
|  |  |
| **Total** |  |

1. **Recruitment**

What arrangements will you make to recruit Apprentices and Other Trainees from agreed sources?

1. **Support for Trainees**

What arrangements will you make to provide mentoring and support for Trainees and work placements to ensure maximum retention and achievement of industry accreditation?

1. **Retention of Trainees**

What steps will you take to maximise the number of new entrant trainees that are retained after the completion of the time they can be counted as ‘new entrant trainees’, and what percentage of new entrant trainee starts would you hope to retain at this stage?

1. **Training Initiatives**

What training initiatives would you seek to utilise, and with which organisations, to maximise achievement of the jobs and skills requirements? What arrangements will be made for work place recording and assessment?

1. **Notification of Vacancies**

What arrangements will you make to notify all vacancies to agencies named by the Council and provide time for applications from these sources to be considered?

1. **Contractors and subcontractors**

How will you obtain the cooperation of subcontractors and Contractors to ensure the delivery of the jobs and skills requirements?

1. **Information**

How will you ensure that personal information on each ‘new entrant trainee’ can be provided to the Council?

1. **Management**

Who will be responsible for the delivery of the jobs and skills requirements [on site and/or for the contract(s)]?

1. **Other Information**

Please provide here any additional information on how you would approach the implementation of the jobs and skills requirements, including any innovative ideas.

1. **Costs**

Please complete Table 3 in relation to the resources required to deliver the jobs and skills requirements.

Table 3 Summary of Resources

|  |  |  |
| --- | --- | --- |
| **Cost Item** | **£** | **Basis of calculation** |
| Management and administration |  |  |
| Training costs |  |  |
| Additional site costs Mentoring and support activities |  |  |
| **Total cost** |  |  |
|  |  |  |
| **Sources of Funding and other Resources** |  |  |
| Grants (for example, from Construction Skills) |  |  |
| Existing company staff / overheads |  |  |
| Trainee productivity |  |  |
| Services from other external agencies |  |  |
|  |  |  |
| **Total of additional resources** |  |  |
|  |  |  |
| **Net Cost** |  | Difference between Total cost and Total of additional resources. |

Part 3 - Relevant Agencies

[insert details of agencies]

[Schedule 11 - Safeguarding children and vulnerable adults

[Part 2 Safeguarding Suspension/Termination Procedure]

**Contractor’s Obligations**

Part 1A

1. For the purposes of this Schedule **Safeguarding Policy and Procedure** means the Council’s policy and procedure for the safeguarding of people, as amended from time to time, and which, for the time being, are contained in the documents entitled:[In relation to Adults: (a) Safeguarding Vulnerable Adults in Croydon: Part 1, The Policy (v3, May 2010); and (b) Safeguarding Vulnerable Adults in Croydon: Part 2, The Procedures (v3, May 2010). In relation to children: London Child Protection Procedures and Practice Guidance as issued and from time to time updated by the London Safeguarding Children Board]
2. The Contractor shall ensure that all individuals engaged in the provision of the Services are:
   * 1. subject to a valid enhanced disclosure check undertaken through the Criminal Records Bureau including a check against the adults’ barred list or the children’s barred list, as appropriate;
     2. are registered with ISA.
3. The Contractor shall:
   * 1. monitor the level and validity of the checks made under Condition 1 for each member of staff on at least a yearly basis; and,
     2. retain the results of and provide copies of any checks undertaken pursuant to Condition 1 to the Council’s Authorised Representative on request.
4. The Contractor warrants that at all times for the purposes of the Contract it has no reason to believe that any person who is or will be employed or engaged by the Contractor in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
5. The Contractor shall not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out Regulated Activity or who may otherwise present a risk to service users.
6. The Contractor shall:
   1. comply with all of the obligations of a provider under the Safeguarding Policy and Procedure; and
   2. adopt, within 10 Working Days of the Contract Date, and follow written policies and procedures to ensure the safeguarding of vulnerable people and, as a minimum, those policies and procedures shall reflect all the requirements of the Safeguarding Policy and Procedure
7. The Contractor shall promote best practice by ensuring that:
   1. it reviews and updates the policies and procedures that it adopts pursuant to Condition 6 on at least a yearly basis;
   2. all Contractor Personnel receive training as required under Condition 9; and
   3. it follows safe employment procedures.
8. The Contractor shall ensure that:
   1. the issue of safeguarding of people is included in its induction procedures for all Contractor Personnel; and
   2. it regular updates Contractor Personnel as to safeguarding matters.
9. The Contractor shall provide training on safeguarding matters to all Contractor Personnel and the Contractor shall require Contractor Personnel to undertake such training to a level that is commensurate with their role in the safeguarding people process. The Contractor shall maintain and keep training records of all such training undertaken by Contractor Personnel so as to evidence the Contractor Personnel’ attendance and the level of training undertaken. The Contractor shall, at the Council’s request, make training records available to the Council’s Authorised Representative.
10. The Contractor shall ensure that information regarding complaints procedures and safeguarding matters is readily available and accessible to all stakeholders including but not limited to service users, their carers and families, and Contractor Personnel.
11. The Contractor shall undertake regular (being not less than once every three months) risk assessments of service users in order to identify issues of vulnerability. The Contractor shall integrate such risk assessments into its assessments’ practise, care planning and person-centred planning processes so as to reduce risk and increase service users’ self protection mechanisms.
12. The Contractor shall establish and encourage good lines of communication amongst Contractor Personnel and its supervisory personnel and amongst service users, relatives and other professionals in order to foster an “open culture” within the Contractor’s organisation.
13. The Contractor shall ensure that the Contractor Personnel make accurate, factual and contemporaneous notes of all incidents that potentially raise issues relating to the safeguarding of vulnerable people and shall procure that the Contractor Personnel provide the Contractor with a copy of all notes within 24 hours of the occurrence of any such incident. The Contractor shall keep all notes and records relating to such incidents for at least six years following the end of the Contract Period.
14. The Contractor shall operate robust recruitment procedures for all prospective Contractor Personnel who will come into or who are likely to come into any contact with vulnerable people and such procedures shall first and foremost have regard to the safeguarding of people. The Contractor shall, on request, provide the Council with details of its recruitment procedures.
15. If, as part of the Contractor’s recruitment process, a prospective recruit is to visit or come into contact with any service users, the Contractor shall ensure that a suitably qualified, full-time member of its staff accompanies such prospective recruit at all times.
16. The Contractor shall adopt and maintain comprehensive procedures for the reporting of and the management of any allegation against a member of Contractor Personnel of a failing to safeguard people. The Contractor shall ensure that such procedures: (a) promote the safety and welfare of vulnerable people; and, (b) comply with any statutory requirements.
17. The Contractor shall immediately (and in any event within 24 hours) notify the Council’s “Safeguarding Adults’ Lead” (as notified to the Contractor’s Authorised Representative by the Council’s Authorised Representative) and the Council Representative if it becomes aware, has reason to believe, or suspects that an adult is likely to be, is being, or has been abused or injured by a member of the Contractor Personnel. In such circumstances, the Contractor shall consider whether it is appropriate to suspend that member of the Contractor Personnel and shall take such emergency measures (by way of example, but without limitation, informing the police or seeking medical assessment/treatment) as it deems appropriate to the situation. The Contractor must, as far as is practicable, preserve any evidence but may not commence any investigation until authorised to do so by the Council. If applicable, the Contractor shall also notify the Care Quality Commission and ISA of any such incidents.
18. If the Contractor suspends or dismisses a member of Contractor Personnel by reason of an allegation or finding of abuse, or failing to safeguard an adult, the Contractor shall follow recognised safeguarding people guidance (including that of government and other relevant professional bodies). The Contractor shall keep full and detailed records of all such suspensions and dismissals (which shall include but is not limited to the name and address of the dismissed, or suspended member of Contractor Personnel; the nature of the allegation or finding; the names and contact details of the victim and any witnesses; and any relevant evidence) and the Contractor shall immediately notify (and in any event within 24 hours) the Council’ Authorised Representative and any other interested supervisory body of such suspension or dismissal.
19. The Contractor shall, within 10 Working Days of the Contract Date, adopt a written code of conduct for all Contractor Personnel which details clear standards of conduct relating to personal and sexual relationships between Contractor Personnel and service users or other vulnerable people.

Part 1B

The following additional provisions apply only in relation to safeguarding children and in that context only shall have priority in the event of any conflict with Part 1A of this Schedule:

1. The Provider shall at all times act to safeguard and promote the wellbeing of the service users and in particular, but without prejudice to the generality of the foregoing, Provider shall:
   1. act in accordance with the Council’s multi-agency/local procedures and guidance for safeguarding children and adults, and comply with:
      1. London Child Protection Procedures (2014)
      2. Working Together to Safeguard Children (2013)
      3. Pan London Adult Safeguarding Procedures (2011)
      4. Children Act 1989
      5. Children Act 2004 including the specific requirements under Section 11
      6. Care Act 2014
      7. Mental Capacity Act (2005) and the Deprivation of Liberty Standards
      8. Protection of Freedoms Act 2012
      9. Data Protection Act 1998/Public Disclosure Act 1998
2. The Provider shall maintain comprehensive procedures that: (a) promote the safety and welfare of children and adults at risk; and, (b) comply with any statutory requirements including those set out in the documents listed.
3. The Provider must have a designated person of sufficient seniority for safeguarding adults/children and such designated person’s responsibility is essentially to make sure that the Provider’s safeguarding policy is robust and implemented.
4. The Provider must ensure that it complies and that its Staff are aware of, understand, and fully comply with and are competent to undertake their responsibilities set out in the documents listed at paragraph 2 above to safeguard all service users including those service users who do not have capacity to make informed choices, or where their capacity or their ability to make informed choices is unknown or subject to doubt.
5. The Provider shall provide training on safeguarding matters to all Provider Personnel and the Provider shall require Provider Personnel to undertake such training, ensuring they have an understanding of their safeguarding roles and responsibilities to a level that is commensurate with their duties to safeguard adults and children and to meet the competencies outlined in any national framework for Safeguarding in accordance with the requirements of the legislation listed at paragraph 2 above and any other relevant statutory requirements and government guidance relating to safeguarding adults and children.
6. The Provider shall maintain and keep training records of all such training undertaken by Provider Personnel so as to evidence the Provider Personnel’s attendance and the level of training undertaken. This training should include active encouragement to Provider Personnel in respect of whistle blowing if they become aware of suspected abuse.
7. The Provider shall, at the Council’s request, make training records available to the Council.
8. The Provider shall ensure that the issue of safeguarding of adults and children is included in its induction procedures for all Provider Personnel.
9. The Provider must ensure that professional boundaries are maintained between Provider Personnel and service users so that service users are safeguarded from any form of abuse or exploitation including physical, financial, psychological and sexual abuse, neglect, discriminatory abuse or self-harm or inhuman or degrading treatment through deliberate intent, negligent acts or omissions or ignorance by the Provider Personnel in accordance with the Provider’s written policies and procedures.

**Safer Recruitment**

1. The Provider must, and must ensure that any Sub-Contractor must, at its own cost, in respect of all Provider Personnel which the Provider employs in delivering the Services at Premises, where they will come into contact with service users, comply with the requirements of the Disclosure and Barring Service (“DBS”) and copies of Provider Personnel DBS certificates shall be supplied to the Council when requested.
2. The Provider shall adhere to its safe employment procedures as set out in the Provider's Response Document which shall, as a minimum:
   1. operate robust recruitment procedures for all prospective Provider Personnel who will come into or who are likely to come into any contact with adults and children and those who supervise the provision of the Services;
   2. first and foremost have regard to the safeguarding of adults and children;
   3. ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check for regulated activity undertaken through the Disclosure and Barring Service (DBS);
   4. ensure that all Provider Personnel are suitable to provide the Services before they commence the provision of the Services; and
   5. ensure that the Provider does not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a safeguarding risk.
3. The Provider warrants that at all times for the purposes of this Contract it has no reason to believe that any person who is or will be employed or engaged by the Provider in the provision of the Services is barred from the activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006 and any regulations made thereunder, as amended from time to time.
4. The Provider shall, on request, provide the Council with details of its recruitment procedures.
5. The Provider shall ensure that, and shall ensure that any Sub-contractor ensures that, before any Provider Personnel perform the Services:
   1. each of the Provider Personnel is questioned as to whether they have any convictions, cautions, reprimand, bind-overs or warnings or are subject to any pending criminal proceedings for which they have been formally charged which may be relevant to their employment with the Provider; and
   2. the results are obtained for each member of Provider Personnel of a Standard DBS Check, Enhanced DBS Check, an Enhanced DBS & Barred List Check (a “DBS Check”), as appropriate to the role in which the relevant member of Provider Personnel will be engaged; and
   3. provide written confirmation to the Council Authorised Representative that all Provider Personnel have undergone any required DBS check required including in relation to Provider Personnel involved in a Regulated Activity an ABL and/or CBL check as appropriate.
   4. Where a DBS Check discloses a conviction, caution or other information the Provider shall notify the Council. Where the outcome of a DBS Check suggests that the member of Provider Personnel should not be engaged to provide or supervise the provision of the Services, the Council shall, acting reasonably, be entitled to require the Provider to remove the member of Provider Personnel from the Services. Upon being advised of this requirement the Provider shall immediately remove the member of Provider Personnel and shall not re-instate that person without the prior written consent of the Council.
   5. Until the DBS clearance of any particular member of Provider Personnel is confirmed then the relevant member of Provider Personnel must only attend the Premises when partnered at all times by a member of the Provider Personnel who has DBS clearance.
6. The Provider agrees and undertakes that it shall repeat the process set out at paragraph 15 no less frequently than once every three years in respect of all of its Provider Personnel engaged in the performance of the Services.
7. The Council shall be entitled to check against its records the names of any Provider Personnel engaged by the Provider to provide or supervise the provision of the Service and shall be entitled to exercise the same rights as set out in paragraph 11. In checking such records the Council shall be entitled to request from the Provider such information as it shall reasonably require enabling it to undertake the aforementioned check.
8. The Council shall in no circumstances be liable either to the Provider and or any member of its Provider Personnel in respect of any liability, loss or damage occasioned by any action whatsoever taken in accordance with paragraph 11-13 and the Provider shall fully and promptly indemnify and keep the Council and where relevant any Replacement Provider indemnified against any claim made by such member of Provider Personnel.
9. The Provider shall pay any charges which may be levied against the Council by the DBS and any costs of the Council where the Council is processing any DBS applications on behalf of the Provider.
10. The Provider shall ensure that it has internal systems and processes in place such that the Council is notified immediately of any member of Provider Personnel who, subsequent to the carrying out of the checks described in paragraph 11 is subject to any convictions, cautions, pending criminal proceedings or any other information which may be relevant to their employment with the Provider. The Provider shall in such circumstances follow the directions of the Council Authorised Representative including any direction to remove Provider Personnel from Service provision under this Contract and shall not reinstate them without the prior written consent of the Council.
11. The Provider must ensure that all Provider Personnel are eligible to work in the UK in accordance with Section 8 of the Asylum & Immigration Act 1996 and take all reasonable steps to satisfy itself that the documentation submitted by a member of Provider Personnel or person to be employed as a member of Provider Personnel is genuine.
12. The Provider shall require all persons to be employed as Provider Personnel to:
    1. complete a declaration as to their health prior to their commencing work in accordance with Good Industry Practice;
    2. provide satisfactory references.
13. The Provider shall comply with any additional requirements of the Council which, without limitation, arise from the introduction of further legislation, codes of practice, safeguarding policies relating to the protection of children and/or vulnerable adults.
14. Nothing in this Contract shall prevent the Provider from the hiring of agency staff in cases of emergency or to cover absence. All agency staff shall be subject to the same staff vetting procedures and staffing matters as set out in paragraph 11 as Provider Personnel employed directly by the Provider.
15. Other than in exceptional circumstances (such as providing basic information in an acute emergency) it is expected that the Provider will only use professional interpreters and translators who are appropriately registered with an agency or professional body, qualified, insured and in respect of whom appropriate DBS checks have been carried out.
16. The Provider shall refer information about any person carrying out the Services to the DBS where it removes permission for such person to carry out the Services (or would have, if such person had not otherwise ceased to carry out the Services) because, in its opinion, such person has harmed or poses a risk of harm to any child or adult at risk.

**Reporting concerns**

1. The Provider shall maintain comprehensive procedures for the reporting of and the management of any allegation against a member of Provider Personnel of a failing to safeguard adults and children compliant with legislation at paragraph 2. These procedures should ensure referral to the Council.
2. The Provider shall immediately (and in any event within 24 hours) notify the Council and if it becomes aware, has reason to believe, or suspects that a child or adult is likely to be, is being, or has been abused or injured by a member of the Provider Personnel.
3. The Provider shall ensure that the Provider Personnel make accurate, factual and contemporaneous notes of any incidents relating to the safeguarding of adults and children and that the Provider Personnel provide the Provider with a copy of all notes within 24 hours of the occurrence of any such incident. The Provider shall keep all notes and records relating to such incidents for at least six years following the end of the Term.
4. The Provider shall consider whether it is appropriate to suspend that member of the Provider Personnel and shall take such emergency measures (by way of example, but without limitation, informing the police or seeking medical assessment/treatment) as it deems appropriate to the situation. The Provider must, as far as is practicable, preserve any evidence but may not commence any investigation until authorised to do so by the Council.
5. If the Provider suspends or dismisses a member of Provider Personnel by reason of an allegation or finding of abuse, or failing to safeguard a child or adult, the Provider shall follow recognised safeguarding guidance (including that of government and other relevant professional bodies).
6. The Provider shall keep full and detailed records of all such suspensions and dismissals (which shall include but is not limited to the name and address of the dismissed, or suspended member of Provider Personnel; the nature of the allegation or finding; the names and contact details of the victim and any witnesses; and any relevant evidence) and the Provider shall immediately notify (and in any event within 24 hours) the Council and any other interested supervisory body of such suspension or dismissal.
7. The Provider is reminded of its legal obligation to refer relevant information to the Independent Safeguarding Authority (“ISA”), where there is a concern relating to the harm or the risk of harm to children or vulnerable adults or where there is a concern about the behaviour or conduct of an Individual. The Provider agrees to comply with this obligation in a timely manner and in accordance with the guidance issued by ISA.

**Quality Assurance and Auditing**

1. The Provider acknowledges that the Council has responsibilities to seek assurance and supporting evidence from Providers that they are adhering to safeguarding legislation and are sufficiently carrying out their safeguarding responsibilities in the provision of the Services under this Contract. The Provider shall:
   1. ensure that Provider Personnel shall cooperate with and give reasonable assistance to the Council to enable the Council to comply with the Children Act 2004 and the Care Act 2014 in order to safeguard and promote the welfare of Children and adults
   2. use all reasonable endeavours to assist the Council in complying with the Council's duty to discharge its functions having regard to the need to safeguard and promote the welfare of children and adults;
   3. participate in any Council exercises including section 11 quality assurance and auditing processes to enable it to be satisfied that the obligations of this Schedule have been met.
   4. immediately notify the Council of any information that it reasonably requests to enable it to be satisfied that the obligations of this Schedule have been met.
   5. provide all reasonable assistance to the Council, any Relevant Authority (including the Care Quality Commission or Office for Standards in Education, Children's Services and Skills) or inter-agency group in conducting any review (including Serious Case Reviews and/or Domestic Homicide Reviews), investigation or consultation into how local professionals and organisations can improve cooperation and service delivery to enhance child protection including but not limited to Serious Case Reviews.

[Part 2 Safeguarding Suspension/Termination Procedure]

[to be inserted]

Schedule 12 – DATA PROTECTION

[**DN: the Data Processing Table is to be completed as soon as possible and in any event no later than prior to signature**]

1. **DATA PROCESSING**
   1. Where the Contractor, pursuant to this Contract, processes Personal Data on behalf of the Council, the Contractor acknowledges that the Council is the Data Controller and the owner of such Personal Data, and that the Contractor is the Data Processor.
2. **COMPLIANCE WITH DATA PROTECTION LAWS**
   1. The Data Processor warrants that it has complied, and shall continue to comply, with the requirements of the applicable Data Protection Laws and all other data protection legislation in any jurisdiction relevant to the exercise of its rights or the performance of its obligations under this Contract.
3. **DATA PROCESSING OBLIGATIONS**
   1. In respect of any Personal Data to be processed by the Data Processor pursuant to this Contract for which the Council is Data Controller, the Data Processor shall:
      1. have in place and at all times maintain appropriate technical and organisational measures, which may be reviewed by the Council at its discretion, and in such a manner as is designed to ensure the protection of the rights of the data subject and to ensure a level of security appropriate to the risk and shall implement any reasonable security measures as requested by the Council from time to time;
      2. not engage any sub-processor without the prior specific or general written authorisation of the Council (and in the case of general written authorisation; the Data Processor shall inform the Council of any intended changes concerning the addition or replacement of other processors and the Council shall have the right to object to such changes);
      3. ensure that each of the Data Processor’s employees, agents, consultants, subcontractors and sub-processors are made aware of the Data Processor’s obligations under this Schedule and enter into binding obligations with the Data Processor to maintain the levels of security and protection required under this Schedule. The Data Processor shall ensure that the terms of this Schedule are incorporated into each Contract with any sub-processor, subcontractor, agent or consultant to the effect that the sub-processor, subcontractor, agent or consultant shall be obligated to act at all times in accordance with duties and obligations of the Data Processor under this Schedule. The Data Processor shall at all times  be and remain liable to the Council for any failure of any employee, agent, consultant, subcontractor or sub-processor to act in accordance with the duties and obligations of the Data Processor under this Schedule;
      4. process that Personal Data only on behalf of the Council in accordance with the Council’s instructions and to perform its obligations under this Contract or other documented instructions and for no other purpose save to the limited extent required by law;
      5. (at no additional cost to the Council) immediately on termination of the Contract, permanently remove the Personal Data (and copies) from the Data Processor’s systems, or (at the request of the Council) deliver to the Council (in such format as the Council may require) a full and complete copy of all Personal Data, and, following confirmation of receipt from the Council, permanently remove the Personal Data (and copies) from the Data Processor’s systems, and the Data Processor shall certify to the Council that it has complied with these requirements, and such Personal Data shall remain confidential in perpetuity;
      6. ensure that all persons authorised to access the Personal Data are subject to obligations of confidentiality and receive training to ensure compliance with this Contract and the Data Protection Laws;
      7. make available to the Council all information necessary to demonstrate compliance with the obligations laid out in Article 28 of GDPR and this Schedule and allow for and contribute to audits, including inspections, conducted by the Council or another auditor mandated by the Council, of the Data Processor’s data processing facilities, procedures and documentation (and the facilities, procedures and documentation of any sub-processors) in order to ascertain compliance with this Schedule, within 5 working days of request by the client and, following any such audit, without prejudice to any other rights of the Council, the Data Processor shall implement such measures which the Council considers reasonably necessary to achieve compliance with the Data Processor’s obligations under this Schedule; provided that, in respect of this provision the Data Processor shall immediately inform the Council if, in its opinion, an instruction infringes Data Protection Laws;
      8. taking into account the nature of the processing, provide assistance to the Council, within such timescales as the Council may require from time to time, in connection with the fulfilment of the Council’s obligation as Data Controller to respond to requests for the exercise of data subjects’ rights pursuant to Chapter III of the GDPR to the extent applicable;
      9. provide the Council with assistance in ensuring compliance with articles 32 to 36 (inclusive) of the GDPR (concerning security of processing, data breach notification, communication of a personal data breach to the data subject, data protection impact assessments, and prior consultation with supervisory authorities) to the extent applicable to the Council, taking into account the nature of the processing and the information available to the Data Processor;
      10. (at no additional cost to the Council) deal promptly and properly with all enquiries or requests from the Council relating to the Personal Data and the data processing activities, promptly provide to the Council in such form as the Council may request, a copy of any Personal Data requested by the Council;
      11. (at no additional cost to the Council) assist the Council (where requested by the Council) in connection with any regulatory or law enforcement authority audit, investigation or enforcement action in respect of the Personal Data;
      12. immediately notify the Council in writing about:
          1. any potential or actual Data Breach or any potential or actual accidental loss, disclosure or unauthorised access of which the Data Processor becomes aware in respect of Personal Data that it processes on behalf of the Council;
          2. any request for disclosure of the Personal Data by a law enforcement authority (unless otherwise prohibited);
          3. any request or complaint received directly from a data subject (without responding other than to acknowledge receipt); and
          4. any communication the Contractor receives from the Information Commissioner’s Office or other regulatory body.
      13. maintain a record of its processing activities in accordance with Article 30 of the GDPR; and
      14. indemnify the Council against all liabilities, claims, costs, expenses, damages and losses (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other professional costs and expenses) suffered or incurred by the Council or for which it may become liable as a result of or in connection with any failure of the Data Processor, its employees, agents, consultants, subcontractors or sub-processors to comply with this Schedule.
      15. The Council may, at any time on not less than 30 Working Days’ notice, revise this paragraph 3 by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
      16. The parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Council may on not less than 30 Working Days’ notice to the Contractor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner’s Office.
4. **INTERNATIONAL DATA TRANSFERS**
   1. In respect of any Personal Data to be processed by a party acting as Data Processor pursuant to this Contract for which the other party is Data Controller, the Data Processor shall not transfer the Personal Data outside the EEA or to an international organisation without:
      1. obtaining the written permission of the Data Controller;
      2. ensuring appropriate levels of protection, including any appropriate safeguards if required, are in place for the Personal Data in accordance with the Data Protection Laws;
      3. notifying the Data Controller of the protections and appropriate safeguards in paragraph 4.1.2 above;
      4. documenting and evidencing the protections and appropriate safeguards in paragraph 4.1.2 above and allowing the Data Controller access to any relevant documents and evidence.
5. **DETAILS OF PROCESSING ACTIVITIES**
   1. The following table sets out the details of processing as required by Article 28 of GDPR:

|  |  |
| --- | --- |
| **Purposes for which the Personal Data shall be processed**  Please specify the purposes for which the Data Processor intends to process the Personal Data. |  |
| **Description of the categories of the data subjects**  Please specify the categories of data subject whose Personal Data shall be processed under this Contract. |  |
| **Description of the categories of Personal Data**  Please specify the categories of Personal Data that shall be processed under this Contract and identify any categories that can be considered sensitive personal data in **bold**. |  |
| **Description of transfers of Personal Data to a country outside of the EEA**  Please record transfers of Personal Data outside of the EEA, recording the country and/or international organisation and, where applicable, please document suitable safeguards. |  |
| **The envisaged time limits for erasure of the different categories of Personal Data**  Please specify how long you think the Personal Data will be retained for, where possible. |  |
| **General description of technical and organisational security measures**  Where possible, please describe the measures put in place under Article 32(1) GDPR. |  |
| **Authorised Sub-Processors**  List the sub-processors who will process Personal Data. |  |