

Housing
Ombudsman Service

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Contract

for the provision of WorkRite software

Service Provision Start Date:	17 th July 201
Contract Reference:	DSE

PROTECT COMMERCIAL

This CONTRACT is made on the XXXXXX "Service Provision Start Date"

BETWEEN:

(1) The Housing Ombudsman, THO ("The Customer"), a corporation sole whose principal office is at Exchange Tower 1, Exchange Square London E14 9GE and

(2) Posturite Ltd, The Mill, Berwick, East Sussex BN26 6SZ (the "Contractor").

together known as "the Parties".

WHEREAS:

The THO has agreed to appoint the Contractor to provide and deliver the Services and the Contractor has agreed to accept such appointment on the Conditions set out below.

IT IS AGREED as follows:

1. Interpretation

1.1. In this Contract and the Schedules hereto terms with capital initial letters shall have the meanings set forth in Condition 1 or defined elsewhere as appropriate.

2. Provision of the Services

2.1. The Contractor agrees to provide to THO, and THO agrees to purchase the Services set out in Schedule 1 hereto.

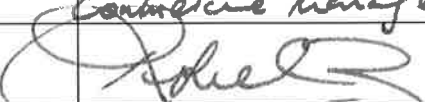
3. Duration

3.1.1. This Contract shall commence on the Service Provision Start Date and unless terminated at an earlier date in accordance with its terms shall continue in effect until the earlier of:

3.1.2. any date on which a termination of this Contract for convenience by THO is effective (the Parties agree that THO may terminate this Contract for convenience any time on giving the Contractor no less than three months' written notice).

3.1.3. the date specified by THO if THO terminates this Contract pursuant to Conditions 11(c), 20.4(a), 20.7(a) or 21;

3.1.4. 10/7/20 "the Expiry Date"

Signed by and on behalf of THO:		Signed by and on behalf of the Contractor:	
Name (Print):	ROSALIND D. CRUZ	Name (Print):	
Title:	Commercial Manager	Title:	
Signature:		Signature:	

Terms and Conditions for the Provision of Services

1. Interpretation

1.1 In these Conditions: Approval" means the written consent of THO and "Approve" shall be construed accordingly.

"Change" means any amendment to the scope and/or manner of provision of the services and which is carried out in accordance with Schedule 3 (CHANGE CONTROL)

"Charges" the amount payable by the Customer to the Contractor for Services duly performed and delivered by the Contractor to the Customer.

"Commercially Sensitive Information" means information relating to

- (a) the pricing of Services, but not the price and
- (b) such other information which the Contractor has indicated to the Customer that, if disclosed, by the Customer would cause the Contractor significant commercial disadvantage or material financial loss;

"DPA" means the Data Protection Act 1998 and any subordinate legislation made under such 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.

"EIR" has the meaning given to it in Condition 29.1

"Expiry Date" means the date in Condition 3.1.5

"FOIA" has the meaning given to it in Condition 29.1.

"Good Industry Practice" means the exercise of that degree of skill, diligence prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced supplier seeking to perform its contractual obligations, complying with all applicable Laws and regulations and engaged in the same type of undertaking as the Contractor

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

"Record" means the documented evidence of delivery of the Service to the Customer and which is signed and agreed by Customer to support payment of the Charges.

"Regulatory Bodies" means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in the Contract or any other affairs of THO and "Regulatory Body" shall be construed accordingly

"Relevant Policies" has the meaning given to it in Condition 20.1(c).

"Relevant Requirements" has the meaning given to it in Condition 20.1(a).

"Relevant Terms" has the meaning given to it in Condition 20.2.

"Replacement Contractor" means any third party service provider of Replacement Services appointed by the Customer from time to time (or where the Customer is providing replacement Services in-house, the Customer)

"Services" has the meaning given to it in paragraph 1 Schedule 1 (SERVICES)

"Staff" means all persons employed or engaged by the Contractor to perform its obligations under the Contract together with the Contractor's servants, agents, suppliers and sub-contractors, any consultants and professional advisers (and their respective servants, agents, suppliers and sub-contractors) used in the performance of its obligations under the Contract.

"Term" means the period from the Service Provision Date to the Expiry Date

"Working Day" means a day (other than a Saturday or Sunday) on which banks are open for general business in the City of London.

"the Contract" means the agreement concluded between THO and the Contractor, including specifications, patterns, the Contractor's samples, plans, drawings and other documents which are incorporated or referred to therein;

"the Contractor" means the person who by the Contract undertakes to supply the Services to THO as is provided for in the Contract; where the Contractor is an individual or partnership, the expression shall include the personal representatives of that individual or of the partners;

"THO" means The Housing Ombudsman, a corporation sole;

"Order" means THO purchase order or other agreed official document specifying THO's requirements for delivery of the Contract or part thereof to which these Conditions are annexed;

"Premises" means the location or locations where the Services are to be performed as specified in the Order.

- 1.2 Unless the context otherwise requires, reference in these Conditions to any enactment, order, regulation or other similar instrument shall be construed as a reference to the enactment, order, regulation or instrument as amended or re-enacted by any subsequent enactment, order, regulation or instrument.
- 1.3 The headings to these Conditions shall not affect their interpretation.
- 1.4 Any decision, act or thing which either party to the Contract is required to take or do under the Contract may be requested by any officer or employee of the other party authorised, either generally or specially, by that other party to make such a request, provided that upon receipt of a written request from one party the other party shall inform the party requesting the information of the name of any such officer or employee.
- 1.5 An Order raised in writing by THO constitutes an offer on the part of THO to acquire the Services subject to these Conditions which must be accepted either in writing by the Contractor or by the actual execution of the Order. The Contractor is deemed to have understood the nature and extent of the Services and to have visited the Premises and shall make no claim founded on his failure to do so. THO shall not be liable for any order unless it is issued or confirmed on its purchase order or other official document and signed by an authorised officer of THO.

2. Variation of Conditions

The Services shall be supplied in accordance with these Conditions. Any conditions which the Contractor may seek to impose and which in any way add to, vary or contradict these Conditions shall be excluded and not form part of the Contract, unless each of such conditions has been specifically agreed to in writing by THO in accordance with Schedule 3 (CHANGE CONTROL PROCEDURES).

Acceptance of an Order shall be deemed to bind the Contractor to these Conditions and the Services shall not be supplied or performed by the Contractor, his employees, agents or representatives, except in accordance herewith.

The Contract contains the whole agreement between the Parties in respect of its subject matter and supersedes and replace any prior written or oral agreements, representations or understandings between them relating to such subject matter. The Parties confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Contract. Nothing in the Contract

3. Contractor's Status

In carrying out the Services the Contractor shall be acting as an independent Contractor and not as the agent of THO. Accordingly:

- (a) the Contractor shall not (and shall procure that the Staff do not) say or do anything that might lead any other person to believe that the Contractor is acting as the agent of THO, and
- (b) nothing in the Contract shall impose any liability on THO in respect of any liability incurred by the Contractor to any other person but this shall not be taken to exclude or limit any liability of THO to the Contractor that may arise by virtue of either a breach of the Contract or any negligence on the part of THO, its staff or agents.

4. Contractor's Personnel

- 4.1 The Contractor shall take the steps reasonably required by THO to prevent unauthorised persons being admitted to the Premises. If THO gives the Contractor notice that any person is not to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract, the Contractor shall take all reasonable steps to comply with such notice and if required by THO the Contractor shall replace any person removed under this Condition with another suitably qualified person and procure that any pass issued to the person removed is surrendered.
- 4.2 If and when instructed by the THO, the Contractor shall give to THO a list of names and addresses of all persons who are or may be at any time concerned with the Services or any part of them, specifying the capacities in which they are so concerned, and giving such other particulars and evidence of identity and other supporting evidence as THO may reasonably require.
- 4.3 The decision of THO as to whether any person is to be admitted to or is to be removed from the Premises or is not to become involved in or is to be removed from involvement in the performance of the Contract and as to whether the Contractor has furnished the information or taken the steps required of him by this Condition shall be final and conclusive.
- 4.4 The Contractor shall bear the cost of any notice, instruction or decision of THO under this Condition.

5. Manner of Carrying out the Services

- 5.1 The Contractor shall make no delivery of materials, plant or other things nor commence any work on the Premises without obtaining THO's prior consent.
- 5.2 Access to the Premises shall not be exclusive to the Contractor but only such as shall enable it to carry out the Services concurrently with the execution of work by others. The Contractor shall co-operate with such others as the THO may reasonably require.
- 5.3 THO shall have the power at any time during the progress of the Services to order in writing:
- (a) the removal from the Premises of any materials which in the opinion of THO are either hazardous, noxious or not in accordance with the Contract, and/or
 - (b) the substitution of proper and suitable materials, and/or
 - (c) the removal and proper re-execution notwithstanding any previous test thereof or interim payment thereof of any work which, in respect of material or workmanship or otherwise is not in the opinion of THO in accordance with the Contract.
- 5.4 On completion of the Services the Contractor shall remove its plant, equipment and unused materials and shall clear away from the Premises all rubbish arising out of the Services and leave the Premises in a neat and tidy condition.

6. Time of Performance

The Contractor shall begin performing the Services on the date stated in the Order and shall complete them by the date stated in the Order or continue to perform them for the period stated in the Order (whichever is applicable). Time is of the essence of the Contract. THO may by written notice require the Contractor to execute the Services in such order as THO may decide, in the absence of such notice the Contractor shall submit such detailed programmes of work and progress reports as THO may from time to time require.

7. Forms

An advice note shall accompany each complete performance of the Services or of any separable part thereof. A bill shall be rendered on the Contractor's own invoice form to THO. All advice notes, other relevant correspondence and invoices, shall be clearly marked with THO's order number, the consignee and the description of the Services concerned.

8. Free-Issue Materials

Where THO for the purpose of the Contract issues materials, information or data, free of charge to the Contractor such materials, information or data shall be and remain the property of THO. The Contractor shall maintain all such materials, information or data in good order and condition and shall use such materials, information or data solely in connection with the Contract. The Contractor shall notify THO of any surplus materials remaining after completion of the Services and shall dispose of them as THO may direct. Waste of such materials arising from bad workmanship or negligence of the Contractor or any of his servants' agents or sub-contractors shall be made good at the Contractor's expense. Without prejudice to any other of the rights of THO, the Contractor shall deliver up such materials whether processed or not to THO on demand.

9. Audit

The Contractor shall keep and maintain until two years after the Contract has been completed records to the satisfaction of THO of all expenditures which are reimbursable by THO and of the hours worked and costs incurred in connection with any employees of the Contractor paid for by THO on a time charge basis. The Contractor shall on request afford THO or his representatives such access to those records as may be required by THO in connection with the Contract.

10. Patents and Information

- 10.1 It shall be a condition of the Contract that the Services (other than those parts of the Services which incorporate designs furnished by THO) shall not infringe any patent, trade mark, registered design, copyright or other right in the nature of intellectual or industrial property of any third party and the Contractor shall indemnify the THO against all actions, claims, demands, costs and expenses which THO may suffer or incur as a result of or in connection with any claim by a third party that such elements of the Services are so infringing.
- 10.2 All intellectual property rights (including ownership and copyright) in any specifications, instructions, plans, drawings, patents, models, designs or other materials:
- (a) furnished to or made available to the Contractor by THO are hereby assigned to and shall vest in THO absolutely; or

- (b) prepared by or on behalf of the Contractor for use, or intended use, in relation to the performance of the Contract are hereby assigned to and shall vest in THO absolutely, and the Contractor shall not and shall procure that the Staff shall not (except to the extent necessary for the implementation of the Contract) without prior written consent of THO use or disclose any such specifications, instructions, plans, drawings, patents, models, designs or other material as aforesaid or any other information (whether or not relevant to the Contract) which the Contractor may obtain pursuant to or by reason of the Contract, except information which is in the public domain otherwise than by reason of a breach of this provision, and in particular (but without prejudice to the generality of the foregoing) the Contractor shall not refer to THO or the Contract nor use THO's logo or other identifier in any advertisement or other public announcement without THO's prior written consent.

10.3 The provisions of this Condition 10 shall apply during the continuance of the Contract and after its termination howsoever arising.

11. Default by Contractor

If the Contractor shall have failed to comply with any terms of the Contract, either in relation to provision of the Services or otherwise, THO shall be entitled (whether or not the Services or any part thereof have been accepted by THO) to avail itself of any of the following remedies at THO's discretion:

- (a) rescind the Contract; or
- (b) give the Contractor the opportunity to carry out remedial work in respect of the Services at the Contractor's expense so that they comply with the terms of the Contract; or
- (c) refuse to accept any further performance of the Services and/or terminate the Contract in whole or in part without any liability to the Contractor; or
- (d) carry out (either itself or using a third party) at the Contractor's expense such work as may be necessary to make the Services comply with the Contract; or
- (e) claim such damages, costs and expenses as THO may have sustained in consequence of any breach of the terms of the Contract or failure by the Contractor to comply with any statutory or other legal obligations herein specified or implied by law.

These rights shall be in addition to and without prejudice to any other rights THO may have.

12. Force Majeure

Neither party shall be liable to the other for any failure to perform its obligations under the Contract where such performance is rendered impossible by circumstances beyond its control, but nothing in this Condition shall limit the obligations of the Contractor to use his best endeavours to fulfil his obligations under the Contract.

13. Price and Payment

13.1 The Charges shall be 'net', that is, after deduction of all agreed discounts. The amount of any duty additional to the Charges and any early settlement discounts shall be shown separately in the Contract.

13.2 Payment for the Services rendered, unless stated otherwise in the Contract, shall be made thirty days after receipt by THO of a correctly rendered invoice. THO will seek to encourage genuine early settlement discounts whenever possible. Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge. Delays in payment of invoices are possible if the Contractor does not show THO's Order number on its invoices. Payment terms shall not be varied without the express authority of THO.

13.3 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due, or which at any time thereafter may become due, to the Contractor under the Contract or under any other contract with THO.

14. Warranties

14.1 The Contractor warrants to THO that the Services shall be performed by appropriately qualified and trained personnel with due care and diligence and to such high standard of quality as it is reasonable for THO to expect in all the circumstances (such standard shall be no less than Good Industry Practice)

14.2 Without prejudice to any other right or remedy if the Services or any part thereof are not performed in accordance with the Contract then THO shall be entitled:

- (a) at THO's option to require the Contractor to supply a replacement for the Services in accordance with the Contract within the time stated in writing by THO; or
- (b) at THO's sole option and whether or not THO has previously required the Contractor to supply any replacement for the Services to require the repayment of any part of the Charges which have been previously paid in respect of the deficient Services.

15. Limitation of Liability

- 15.1 Nothing in this Contract shall limit the liability of any person for losses, damages, claims, demands, actions, costs, charges, expenses and liabilities arising directly or indirectly as a result of:
- (a) personal injury or death arising from its negligence, or
 - (b) fraud, or
 - (c) any other liability which cannot be limited under applicable Law.
- 15.2 Subject to Condition 15.1, neither party shall be liable to the other party pursuant to this Contract, whether in contract or otherwise howsoever arising, for any loss of business, loss of opportunity, loss of goodwill or loss of anticipated savings or any indirect or consequential losses or damages.
- 15.3 Subject to Conditions 15.1, 15.2 and the maximum aggregate liability of the Contractor for breach of this Contract shall be 100% of the value of the contract in any contractual year.
- 15.4 The Contractor's liability pursuant to Condition 30.6 shall not be subject to the limit set out in Condition 15.3 and shall be uncapped.

16. Insurance

- 16.1 The Contractor shall insure against its full liability under Condition 15. The requirements on the Contractor to have in place such insurance shall be a condition of the Contract.
- 16.2 The Contractor shall procure that each of its sub-contractors have in place appropriate insurance to cover its obligations as such relate to this Contract.
- 16.3 The Contractor upon request shall produce to THO or cause any sub-contractor to produce documentary evidence that the insurance is properly maintained.
- 16.4 If the Contractor defaults in insuring, THO may itself effect insurance and charge the cost together with an administrative charge of 5% to the Contractor.

17. Transfer and Sub-Contracting

Neither party shall assign the whole or any part of the Contract. The Contractor shall not sub-contract the production or supply of the Services or any part thereof without the previous consent in writing of THO.

18. Patents, etc.

The Charges shall include all royalties, licence fees or similar expenses required in respect of the receipt and use of the Services by THO and/or the making, use or exercise by the Contractor of any invention or design for the purpose of performing the Contract.

19. Confidentiality

The Contractor, his employees and agents shall treat this Contract and all data, designs, drawings, material, specifications and information supplied by THO to the Contractor in connection with this Contract as confidential and shall not disclose the same to any third party without THO's written consent or infringe any copyright, patent, trade mark, trade name or registered design vested in the THO. All materials, drawings, documents, specifications and other technical data prepared by or on behalf of THO in connection with the Contract shall be THO's property and THO may reproduce and use the said items freely for any purpose whatsoever.

20. Anti-Bribery and Corruption

20.1 The Contractor shall:

- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;

- (c) comply with THO's ethics, anti-bribery and anti-corruption policies and all relevant industry codes on anti-bribery or anti-corruption, in each case as THO or the relevant industry body may update them from time to time ("Relevant Policies");
 - (d) have and shall maintain in place throughout the Term its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and Condition 20.1(b), and will enforce them where appropriate;
 - (e) promptly report to THO any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this Contract;
 - (f) immediately notify THO (in writing) if a foreign public official becomes an officer or employee of the Contractor or acquires a direct or indirect interest in the Contractor (and the Contractor warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the Effective Date); and
 - (g) within 2 (two) months of the Effective Date, and annually thereafter, certify to THO in writing signed by an officer of the Contractor, compliance with this Condition 20.1 by the Contractor and all persons associated with it under Condition 20.2. The Contractor shall provide such supporting evidence of compliance as THO may reasonably request.
- 20.2 The Contractor shall ensure that any person associated with the Contractor who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Contractor in Condition 20.1 ("Relevant Terms"). The Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to THO for any breach by such persons of any of the Relevant Terms.
- 20.3 For the purpose of Condition 20.1 and 20.2, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this Condition 20 a person associated with the Contractor includes any sub-contractor of the Contractor.
- 20.4 Breach of Condition 20.1 shall be deemed a material breach under this Contract and if the Contractor, or any member(s) of Staff, engages in conduct prohibited by Condition 20.2, THO may, notwithstanding any other Condition:
- (a) terminate this Contract; and
 - (b) recover from the Contractor the full amount of any liabilities, costs, damages, claims, expenses or losses suffered by THO resulting from the termination, including the cost reasonably incurred by THO of making other arrangements for the supply of the Services and any additional expenditure incurred by THO throughout the remainder of the Term.
- 20.5 The Contractor shall take all reasonable steps to prevent fraud by the Staff in connection with this Contract and its subject matter and the receipt of any monies from THO.
- 20.6 The Contractor shall notify THO immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur in connection with this Contract, its subject matter or the receipt of any monies from THO.
- 20.7 If the Contractor or any member of Staff commits any fraud in relation to this Contract, THO may, notwithstanding any other Condition:
- (a) terminate this Contract; and
 - (b) recover from the Contractor the amount of any liabilities, costs, damages, claims, expenses or losses suffered by THO resulting from the termination, including the cost reasonably incurred by THO of making other arrangements for the supply of the Services and any additional expenditure incurred by THO throughout the remainder of the Term.
- 20.8 THO's rights and remedies under this Contract shall survive inspection, acceptance and payment.
- 20A Modern Slavery**
- 20A.1 The Contractor shall at all times comply with:
- (a) all applicable Laws, regulations and sanctions relating to modern slavery and human trafficking including but not limited to the Modern Slavery Act 2015; and
 - (b) any anti-slavery policy adopted by THO from time to time.

- 20A.2 The Contractor shall implement and maintain throughout the Term due diligence procedures for its own suppliers, permitted sub-contractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.
- 20A.3 The Contractor shall notify THO as soon as it becomes aware of:
- (a) any breach, or potential breach, of any anti-slavery policy adopted by THO from time to time; or
 - (b) any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.
- 20A.4 The Contractor shall permit THO, and any person nominated by it for this purpose, to have such access on demand to the Contractor's premises, personnel, systems, books and records as THO may require to verify the Contractor's compliance with this Condition 20A.
21. Insolvency
- THO may at any time by notice in writing summarily terminate the Contract without compensation to the Contractor in any of the following events:
- (a) if the Contractor, being an individual, or, where the Contractor is a firm, any partner in that firm shall at any time become bankrupt, or shall have a receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance of assignment for the benefit of his creditors, or shall purport to do so, or if in Scotland he shall become insolvent or bankrupt, or any application shall be made for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors; or
 - (b) if the Contractor being a company shall pass a resolution, or the Court shall make an order, that the company shall be wound up (except for the purpose of amalgamation or reconstruction) or if an administrative receiver on behalf of a creditor shall be appointed, or if the Court shall make an administration order, or if circumstances shall arise which entitle the Court or a creditor to appoint an administrative receiver or which entitle the Court to make a winding-up order or administration order;
- provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to THO.
22. Effect of Termination
- In advance of expiry of the Contract or otherwise upon THO informing the Contractor that it intends to terminate the Contract pursuant to Clause 3 (Duration) the Parties acknowledge and agree that the provisions of Schedule 6 (EXIT AND SERVICE TRANSFER ARRANGEMENTS) shall apply. The Contractor shall comply with the provisions of Schedule 6 (EXIT AND SERVICE TRANSFER ARRANGEMENTS) without undue delay.
23. Notice
- Any notice required to be given in writing under the Contract shall be sent by email, facsimile or by first class post, addressed to the address of the party for which it is intended shown on the signature page of the Contract or to such other address as may be notified in writing in accordance herewith for the purposes and shall be deemed to have been received in the case of an email or facsimile at 9:00 am on the next Working Day after transmission and in the case of a letter forty-eight hours after posting. In proving service by letter it shall be sufficient to show that the envelope containing the notice was properly addressed and stamped and duly posted.
24. Waiver
- No failure or delay on the part of THO to exercise any of its rights under the Contract shall operate as a waiver thereof nor shall any single or partial exercise of any such right preclude any other or further exercise thereof. Any waiver by THO of any breach by the Contractor of any of its obligations under the Contract shall not affect the rights of THO in the event of any further or additional breach or breaches.
25. Validity
- If any provision of these Conditions is held by any competent THO to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.
26. Dispute
- Any dispute arising under or in connection with the Contract or the supply of the Services shall be referred to arbitration by a single arbitrator appointed by agreement or (in default) nominated upon the application of either party by the President for the time being of the Law Society in accordance with the Arbitration Acts

1950 - 1979. The arbitrator's decision shall be final and binding the Parties. Costs shall be in the award of the arbitrator.

27. Observance of Legal Requirements

The Contractor shall carry out the obligations of the Contract in a manner that conforms with any relevant legal requirements and in accordance with all applicable Laws.

28. Rights of Third Parties

Nothing in this Contract is intended to confer a benefit on any third party in relation to it and in particular a person who is not a party may not enforce any of the terms or object to any variations and neither shall any person who is not a party have any rights under the Contracts (Rights of Third Parties) Act 1999 in relation to this Contract.

29. Freedom of Information

29.1 The Contractor acknowledges that THO voluntarily complies with legislative responsibilities which may require the release of information under the Freedom of Information Act 2000 ("FOIA") and/or the Environmental Information Regulations 2004 ("EIR") and that THO may be under an obligation to provide information on request. Such Information may include matters relating to, arising out of or under this Contract.

29.2 Notwithstanding anything in this Contract to the contrary, in the event that THO receives a "Request for Information" under any applicable Law, THO will be entitled to disclose all Information to the extent that it is obliged to do so in order to respond to that request in accordance with FOIA and/or EIR, save that in relation to any such information that is:

29.2.1 exempted from disclosure under FOIA or EIR (as applicable) THO will as soon as reasonably practicable after receiving a valid request under FOIA or EIR to disclose such information, notify the Contractor of that fact and (unless requested or agreed otherwise by the Contractor) rely on the FOIA exemption in relation to confidentiality (section 41 FOIA) or the equivalent exemption under EIR and will not, subject to Condition 29.3:

- (a) confirm or deny that the exempted information in question is held by THO; or
- (b) disclose the exempted information requested;

29.2.2 confidential information of the Contractor that is not exempted from disclosure under FOIA or EIR (as applicable) ("Contractor Confidential Information"), THO will consult with the Contractor as soon as reasonably practicable and will not, subject to Condition 29.3:

- (a) confirm or deny that the Contractor Confidential Information in question is held by THO; or
- (b) disclose the Contractor Confidential Information requested,

to the extent that, in THO's opinion, a relevant exemption is applicable in accordance with the relevant section of FOIA and/or EIR in the circumstances.

29.3 Subject to Condition 29.4, nothing in this Contract will prevent THO from complying with any valid decision, enforcement or practice recommendation notice issued to it by the Information Commissioner under FOIA and/or EIR in relation to any exempted information or Contractor Confidential Information, provided that prior to complying with any such notice THO has consulted with the Contractor and (if requested to do so by the Contractor, acting reasonably) appealed to the Information Tribunal against the notice and that appeal has been unsuccessful.

29.4 On request from the Contractor, THO having notified the Contractor of any order, decision, enforcement or practice recommendation notice issued to it by the Information Commissioner or by any court or tribunal in relation to the disclosure of any exempted information or Contractor Confidential Information, THO shall bring such actions and appeals against the disclosure of such Information to the Information Tribunal or to such other courts and tribunals (having jurisdiction) as the Contractor may reasonably require except where THO has received a written opinion from counsel experienced in FOIA and / or EIR-related matters (such opinion to be provided to the Contractor upon request) that such an action or appeal has no reasonable prospect of success.

29.5 The Contractor will fully indemnify THO against any reasonable direct costs incurred by THO in seeking to maintain the withholding of information pursuant to Condition 29.4 provided that:

- 29.5.1 THO (acting in good faith) notifies the Contractor in response to the Contractor's request under Condition 29.4 that it has no wish to pursue any action or appeal for its own purposes and that but for the Contractor's request would disclose the information; and
- 29.5.2 THO will use reasonable endeavours to consult with the Contractor before incurring any such costs.
- 29.6 In the event that THO receives a Request for Information and requires the Contractor's assistance in obtaining such Information, the Contractor will respond to any related request for assistance from THO, at its own cost and within five (5) days of receiving the request for assistance

30 Data Protection

- 30.1 For the purposes of this Condition 30, the terms "Data Controller", "Data Processor", "Data Subject", "Process" and "Processing" shall have the meaning prescribed under the DPA.
- 30.2 The Contractor shall (and shall ensure that all of the Staff) comply with any applicable registration requirements and notification requirements under the DPA and duly observe all obligations under the DPA which arise in connection with the Contract. The Contractor shall perform its obligations under this Contract in such a way as does not cause THO to breach any of THO's obligations under the DPA.
- 30.3 Notwithstanding the general obligation in Condition 30.2, where the Contractor and/or any Staff Process Personal Data as a Data Processor for THO the Contractor shall:
 - (a) process the Personal Data only in accordance with instructions from THO (which may be specific instructions or instructions of a general nature) as set out in this Contract or as otherwise notified by THO;
 - (b) comply with the Law;
 - (c) process the Personal Data only to the extent; and in such manner as is necessary for the provision of the Contractor's obligations under this Contract, or as is required by Law or any Regulatory Body;
 - (d) implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
 - (e) take reasonable steps to ensure the reliability of Staff who may have access to the Personal Data;
 - (f) obtain prior written consent from THO prior to any transfer of Personal Data to any sub-contractor for the provision of the Services;
 - (g) not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior Approval of THO which is to have come from THO's Senior Information Risk Officer (or equivalent) and, where THO so Approves such a transfer, comply with:
 - (i) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the DPA by providing an adequate level of protection to any Personal Data that is transferred; and
 - (ii) any reasonable instructions notified to it by THO;
 - (h) ensure that all Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Condition 30;
 - (i) ensure that none of the Staff publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by THO;
 - (j) not disclose Personal Data to any third parties in any circumstances other than with the written Approval of THO or in compliance with a legal obligation imposed upon THO;

(k) notify THO (within five Working Days) if it receives:

- (i) a request from a Data Subject to have access to that person's Personal Data; or
- (ii) a complaint or request relating to THO's obligations under the DPA;

(l) provide THO with full cooperation and assistance in relation to any complaint or request made, including by:

- (i) providing THO with full details of the complaint or request;
- (ii) complying with a subject access request within the relevant timescales set out in the DPA and in accordance with THO's instructions;
- (iii) providing THO with any Personal Data it holds in relation to a Data Subject (within the timescales required by THO); and
- (iv) providing THO with any other information requested by THO.

(m) permit THO's representative or his/her nominee (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with Condition 9, the Contractor's Processing activities (and/or those of its agents, subsidiaries and sub-contractors) and comply with all reasonable requests or directions by THO to enable THO to verify and/or procure that the Contractor is in full compliance with its obligations under this Contract; and

(n) provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by THO).

30.4 Where the Contractor or any sub-contractor, as part of the Services, Processes Personal Data as a Data Controller, such Personal Data shall have been obtained fairly and lawfully. The Contractor shall ensure that it is able to disclose such Personal Data to THO and that the Services are designed in such a way as to ensure that use by THO of any such Personal Data obtained in connection with the Services does not breach the provisions of the DPA.

30.5 In the event that the Contractor or any Staff fail to comply with this Condition 30, THO may exercise the rights detailed in Condition 11.

30.6 The Contractor shall indemnify THO against all losses, damages, costs, charges, expenses and liabilities suffered, incurred or arising as a result of the Contractor's breach of this Condition 30.

31 Transparency obligations

31.1 The Parties acknowledge that

- (a) the content of this Contract including any changes to this Contract agreed from time to time and matters relating to or arising out of this Contract shall be considered "Transparency Information" for the purpose of this clause 31, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall, in respect of prejudice-based exemptions be determined by the Customer acting reasonably; and
- (b) that, specifically, the information set out in Schedule 6 potentially falls within an exemption to the FOIA including but not limited to confidentiality (Section 41 FOIA), trade secrets (Section 43 FOIA) and prejudice to commercial interests (Section 43 FOIA).

31.2 Notwithstanding any other provision of this Contract, the Contractor hereby give its consent for the Customer to publish to the general public the Transparency Information in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted). The Customer, shall, prior to publication, consult with the Contractor on the manner, content and format of publication and will take the Contractor's views into account and will inform the Contractor of its decision regarding any redactions but shall have the final decision in its absolute discretion.

31.3 The Contractor shall assist and co-operate with the Customer to enable the Customer to publish the Transparency Information

- 31.4 The Contractor acknowledges that any prejudice-based exemptions are also qualified exemptions and that once the Contractor has established that an exemption is available because the test of prejudice is met, it will then have to consider whether the public interest in maintaining the exemption (and hence in withholding the information) outweighs the public interest in disclosure. In circumstances where the Customer determines that the public interest in disclosure outweighs the public interest in maintaining the exemption, it will provide a clear explanation to the Contractor.
- 31.5 The Customer shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Contract is being performed, having regard to the context of the wider commercial relationship with the Contractor.

32 Law

The Contract shall be considered as a contract made in England and subject to English Law

Schedule 1 - SERVICES

1. Introduction

When requested to do so by the Customer, the Contractor shall provide highly qualified and competent personnel in the execution of the Services detailed in this schedule.

The professional services included within the scope of this contract are limited to the implementation meeting(s) and training of system administrators. These sessions will be delivered through a combination of face to face meetings, web based screen-share sessions and audio conferencing.

Schedule 2 – CHARGES SCHEDULE

1. Introduction

- 1.1. This schedule sets out the Charges which the Customer shall pay to the Contractor for the Services over the duration of the contract. No provision for indexation is included in the contract pricing structure.
- 1.2. Travel and subsistence rates are those applying at the time of contract and in line with internal policy. Should that policy change the Contractor shall be informed and any proposed amendment agreed between the Parties.

Product	No # of users	Price
AssessRite training and assessment package	80	£ 955.20
*1 day Consultancy to set the system up	N/A	£ 500.00
Maintenance contract for 1 year	Annual	£ 191.04
Total:		£ 1,646.24

Schedule 3 – CHANGE CONTROL

1.2.1. Change Control Principles

- 1.1 Where the Customer or the Contractor identifies a need to vary this Contract or the scope content or manner of provision of the Services, the Customer may at any time request and the Contractor may at any time recommend such change only in accordance with the Change Control Procedure as set out herein.
- 1.2 The Change Control Procedure shall cover contract changes which require a variation to this Agreement and which shall be given effect by the Contract Change Control Procedure outlined herein.
- 1.3 Neither the Customer nor the Contractor shall unreasonably withhold its agreement to any Change.

1.2.2. Contract Change Control Procedure

- 2.1 A completed pro-forma (see Annex A) to this Schedule shall constitute a request for change (Part A).
- 2.2 The Customer shall assign a unique reference to the request for change.
- 2.3 The Contractor shall impact the change request (Part B) within a 10 working day period providing details of costs where that is appropriate.
- 2.4 Once the Change has been impacted the Customer and the Contractor shall conclude the variation within 5 days.
- 2.5 A signed variation (Part B) constitutes an amendment to the Contract.
- 2.6 THO and the Contractor shall each bear its own costs associated with preparing and agreeing a Change in accordance with the Change Control Procedure

Change control request and impact assessment Pro-forma

PART A

CHANGE REQUEST FORM

Title Of the Change:

Unique ID

Description of the Change

Raised by:

Date

Reason for the Change

Any other issues or considerations

PART B IMPACT ASSESSMENT – to be completed by the Contractor

Title of Change

Unique ID

Section 1 – Impact details**Section 2 – Contract change details**

Price £	Commercial model (fixed price or T&M)	Start date	End date	Impacted schedules	Change Impacted by:	Impact date

Section 3 – Agreement of the Parties

Contract change agreed by:	Customer	Contractor
Signature		
Name & role Title		
Date		

Schedule 4 – KEY PERSONNEL

2. Introduction

- 1.1 The following named Contractor personnel are, for the purposes of the execution of the Services, regarded as Key Personnel

Role Description	Contractor Personnel

- 2.1. The Contractor shall provide a minimum of 3 months notice to the Customer in the event of a change to the Key Personnel.
- 2.2. The Contractor warrants that any replacement Key Personnel are, as a minimum, qualified and capable of performing the services
- 2.3. The Customer shall be entitled to approve the appointment of any replacement Key Personnel, its approval not to be unreasonably withheld.

Schedule 5 – CUSTOMER RESPONSIBILITIES

1. Introduction

This Schedule details responsibilities of the Customer that are additional to those already contained in the terms and conditions and other Schedules of this Contract.

2. Customer General Responsibilities

The Customer shall, upon receiving reasonable notice from the Contractor provide the Contractor will access to members of the Customer's staff, other contractors and those of its agents, as may reasonably be required for the Contractor to discharge its obligations throughout the term of the Contract.

3. Customer Specific Responsibilities (to be completed if relevant)

Schedule 6 – EXIT AND SERVICE TRANSFER ARRANGEMENTS

1. Introduction

- 1.1. This Schedule describes the duties and responsibilities of the Contractor leading up and covering the exit from this Contract and the transfer of provision of the Services where that applies

2. Objectives

- 2.1. The objectives of this Schedule are to

- ensure a smooth transition of Services from the Contractor to a Replacement Contractor or back to the Customer
- ensure that all relevant assets are transferred

3. General

- 3.1. Where the Customer intends to continue equivalent or substantially similar services to the Services after termination or expiry, either by performing them itself or by means of a Replacement Contractor, the Contractor, shall ensure the smooth transition to the Replacement Contractor and shall co-operate with the Customer or the Replacement Contractor as required in order to fulfil the obligations under this Schedule.
- 3.2. The Contractor shall co-operate fully with the Customer and any potential Replacement Contractor(s) tendering for any re-competition for the Services, including enabling the transfer of responsibility for the provision of the Services previously performed by the Contractor to be achieved with the minimum of disruption to the extent that this is within the Contractor's reasonable control.

