

CONTRACT

Between

THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF LAMBETH

and

[CONSULTANT]

THE CONTRACT

The Contract shall comprise the following:

A. The Conditions of Contract comprising:

- 1 Appointment
- 2 Definitions and Interpretations
- 3 Contract Term
- 4 The Consultant's Obligations
- 5 The Consultant's Representative
- 6 The Council's Obligations
- 7 The Council's Authorised Officer
- 8 Risk Management
- 9 [Not Used]
- 10 VAT
- 11 Confidentiality
- 12 Indemnity
- 13 Insurance
- 14 Conflict of Interest
- 15 Monitoring of the Contract
- 16 Termination
- 17 Termination Consequences
- 18 Delivery up of Documents on Termination
- 19 [Not Used]
- 20 Force Majeure
- 21 [Not Used]
- 22 Variations
- 23 Data Protection and Freedom of Information
- 24 Equal Opportunities
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- 26 [Not Used]
- 27 Complaints in Respect of Service Provision
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- 29 Committee Meetings and other Meetings
- 30 Local Authority Functions
- 31 Waiver
- 32 Supersedes Prior Agreements
- 33 Entire Contract
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- 35 Joint and Several
- 36 Assignment and Sub-Contracting
- 37 Third Parties
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B. Schedules to the Contract comprising:

Schedule 1	Service Specification and Consultant's Proposal
Schedule 2	Contact Details
Schedule 3	Pricing Document and Payment Terms

DRAFT

CONTRACT FOR CONSULTANCY SERVICES

THIS CONTRACT is made the day of 2021

BETWEEN

- (1) **[Consultant name]** (company reg: xx) whose address for service within the jurisdiction of the courts of (England and Wales) is [address] (the 'Consultant')

AND

- (2) **The Mayor and Burgesses of the London Borough of Lambeth**, Lambeth Town Hall, Brixton Hill, London SW2 1RW ('the Council')

(each a 'Party' and together 'the Parties')

1 Appointment

- 1.1 The Council has commissioned the Consultant to provide consultancy services to meet the Council's requirement for an options appraisal of service delivery options for its Revenues and Customer facing services.
- 1.2 The Parties have entered into this Contract, which shall govern their respective rights and obligations.

(CONDITIONS OF CONTRACT)

2 Definitions & Interpretations

2.1 Definitions

Authorised Officer	is the officer whose contact details are listed in Schedule 3, or any person whose name has been notified in writing by or on behalf of the Council to the Consultant in accordance with Clause 7
Commencement Date	shall be the date the date stated in Clause 3.1 or, if none is stated, the date on which the Consultant first delivers the Services to the Council
Consultant's Representative	means the person who is to represent the Consultant appointed pursuant to Clause 5.1, whose contact details are listed in Schedule 2
Contract	means the Contract entered into by the Council and the Consultant embodied in the Conditions of Contract and the Contract Documents

Contract Documents	mean the Terms and Conditions of Contract, the tender, the Consultant's quotation and/or proposal and other documents submitted with it, and all other Schedules
Contract Standard	means such standards as complies in each and every respect with all relevant provisions of the Contract Documents and where to the extent that no criteria are stated in the Contract the standard is to be to the entire satisfaction of the Authorised Officer and in any event to the following standards: • in a good, safe and efficient manner in accordance with good practice and professional standards • in accordance with all relevant provisions of the Contract Documents • in accordance with all applicable statutes, statutory instruments, rules, regulations and byelaws
Council	means the Council of the Mayor and Burgesses of the London Borough of Lambeth, Lambeth Town Hall, Brixton Hill, London SW2 1RW
Data Protection Legislation	means (i) the UK-General Data Protection Regulation ('UK-GDPR'), (ii) the Data Protection Act 2018 ("DPA"), and (iii) all applicable laws about the processing of personal data and privacy
Force Majeure	means: • acts of war • acts of God • decrees of Government • riots • civil commotion; and • any event or circumstance beyond the control of, or unpreventable by, the affected Party other than any labour dispute between the Consultant and his staff or the failure to provide the Services by any of the Consultant's sub-contractors but does not include the Covid-19 pandemic
Foreground Intellectual Property Rights	means intellectual property rights in the deliverables to be provided by the Consultant in performance of the Services including but not limited to the options appraisal report

Pricing Document	comprises Schedule 3 and includes the Consultant's Proposal
Schedules	mean the Schedules attached to these Conditions
Services	means the services described in the Specification at Schedule 1 and which are to be delivered by the Consultant
Term	means the period the Services shall be provided by the Consultant from the Commencement of the Services to the completion of all work required under the Contract.
Variation	has the meaning ascribed to it in Clause 22

2.1 Interpretation

- a. Words in the singular include the plural and vice versa;
- b. Words in the masculine include words in the feminine and vice versa
- c. Words importing individuals shall be treated as importing corporations and vice versa;
- d. Headings are for ease of reference only and shall not affect the construction of the Contract; and
- e. Reference to any enactment, order, regulation or other similar instrument shall be construed as a reference to such enactment, order, regulation or instrument as amended or re-enacted by any subsequent enactment, order, regulation or instrument;
- f. The word 'including' shall be understood as meaning 'including without limitation'.

3 Contract Term

- 3.1 The Contract Term (the 'Term') is the three year period commencing on the Commencement Date of [date] 2021 and ending on the completion of the Services with a long stop date of 6 months from the Commencement Date unless terminated in accordance with Clause 16 (Termination) of this Contract or extended by agreement.

4 The Consultant's Obligations

- 4.1 During the Term the Consultant shall perform the Services specified in the Service Specification in accordance with the Contract Standard.
- 4.2 If the Consultant's quotation/proposal for the Services states that a named individual will perform the Services that individual must do so unless the Authorised Officer consents in writing to his substitution with another individual.
- 4.3 The Consultant shall at all times comply with the requirements of the Health and Safety at Work, etc. Act. 1974, the Management of Health and Safety at Work Regulations 1992 (including the provision by the Consultant of a copy of its risk assessment under these Regulations when requested by the Council), and of other Acts, Regulations, Orders or rules of law pertaining to health and safety.

- 4.4 The Council shall own the Foreground Intellectual Property Rights and the Consultant hereby assigns to the Company all existing and future Foreground Intellectual Property Rights in the deliverables and all materials embodying such rights to the fullest extent permitted by law. To the extent that they do not so vest automatically by operation of law or under this agreement, the Consultant holds the legal title in such rights on trust for the Council. The Consultant shall indemnify the Council against all costs and damages associated with infringements of Foreground Intellectual Property Rights in relation to the Services provided by the Consultant.
- 4.5 The Consultant hereby grants to the Council a royalty-free licence in perpetuity to use and reproduce any of its own Intellectual Property Rights (or those which it is entitled to sub-license) as are necessary for the Council to make full use of the Foreground Intellectual Property Rights. The Council shall also be entitled to grant sub-licences to others in such Intellectual Property Rights.
- 4.6 The Consultant, upon the formation of the Contract and at all times throughout the Contract Term, warrants and represents to and undertakes with the Council in the terms set out in its proposal.
- 5 The Consultant's Representative**
- 5.1 The Consultant shall appoint a senior person as a representative empowered to act on behalf of the Consultant for all purposes connected with the Contract. Unless notified to the contrary the individual named as the person who will perform the Services will be the Consultant's Representative.
- 6 The Council's Obligations**
- 6.1 In consideration of the services rendered by the Consultant under this Contract the Council shall pay the Consultant in accordance with the provisions of Schedule 3.
- 6.2 It is a condition of this Contract that the Council shall pay all properly presented valid invoices within 30 days.
- 7 The Council's Authorised Officer**
- 7.1 The Authorised Officer shall be the person defined in this Contract and named in Schedule 2 or such other person nominated in writing by the Council from time to time to act in the name of the Council for the purposes of the Contract.
- 8 Risk Management**
- 8.1 The Consultant agrees to assist the Council in respect of combatting fraud and corruption perpetuated by staff abusing their position and by others who may attempt to obtain the Council's assets or services to which they are not entitled. If the Consultant has any suspicions in this regard he should seek advice from the Head of Internal Audit and Counter Fraud, Civic Centre, 6 Brixton Hill London SW2 1EG.
- 8.2 The Consultant shall have and maintain adequate procedures in place to prevent fraud, bribery, money-laundering and corruption in line with legislation including, but

not limited to, the Terrorism Act 2000, the Proceeds of Crime Act 2002, and the Bribery Act 2010.

9 Not Used

9.1 Not used.

10 VAT

10.1 All sums payable under this Contract unless otherwise stated are exclusive of VAT and other duties or taxes.

11 Confidentiality

11.1 The Consultant shall not at any time during or after the Term divulge or allow to be divulged to any person any confidential information relating to the functions or affairs of the Council to a third person. For this purpose confidential information means any information which the Council notifies the Consultant to be confidential or which the Consultant ought reasonably to know is or may be confidential.

12 Indemnity

12.1 Subject to Clause 12.2 the Consultant shall indemnify and keep indemnified the Council from and against any and all loss, damage or liability (whether criminal or civil) suffered and legal fees and costs incurred by the Council resulting from a breach of this Contract by the Consultant including but not limited to:

- (a) any act, neglect or default of the Consultant or its staff or agents; and
- (b) breaches in respect of any matter arising from the supply of the Services resulting in any successful claim by any third party.

12.2 Neither Party excludes or limits its liability (if any) to the other Party:

- (i) for breach of its obligations arising under Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982;
- (ii) for personal injury or death resulting from its negligence;
- (iii) for any matter for which it would be illegal for it to exclude or to attempt to exclude its liability; or for fraud.

12.3 The Council shall not be liable for any consequential losses including but not exclusively, loss of profit, earning, income, business, goodwill, savings opportunities, reputation or associated costs to the Consultant howsoever caused.

13 Insurance

13.1 The Consultant shall maintain at its own cost and for a period of at least 6 years after the end of the Term policies of insurance to cover its liability in respect of any act or default for which it may become liable to indemnify the Council under the terms of this Contract in the following minimum sums:

- (a) Employers' liability of £5,000,000 (five million)
- (b) Public liability of £5,000,000 (five million)

- (c) Professional indemnity in the sum appropriate to the risk profile of this Contract.
- 13.2 The Consultant warrants and represents that it has the insurances required by Clause 13.1.
- 14 Conflict of Interest**
- 14.1 Upon becoming aware of any possible conflict of interest that may arise between the interest of the Council and any other of the Consultant's clients, the Consultant shall notify the Authorised Officer immediately and shall take all reasonable steps to remove or avoid the cause of any such conflict to the satisfaction of the Authorised Officer.
- 15 Monitoring of the Contract**
- 15.1 The Consultant shall as soon as reasonably practicable provide the Authorised Officer with any information relating to the carrying out of the Services which the Authorised Officer may reasonably request.
- 15.2 The Consultant shall comply with any monitoring arrangements prescribed in this Contract including, but not limited to, providing such data and information as the Consultant may be required to produce under the Contract at the times and in the format required by the Contract or by the Authorised Officer.
- 16 Termination**
- 16.1 Unless otherwise agreed by the Parties or terminated pursuant to Clause 3.2 or any of the following provisions, the Contract shall expire at the end of the Term specified in Clause 3.1 of this Contract.
- 16.2 The Council may terminate the Contract with immediate effect if:
- (a) The Authorised Officer is of the reasonable opinion that the Consultant has failed to perform the Services specified in the Contract or has failed to do so to the Contract Standard and that such failure is incapable of remedy.
 - (b) The Consultant has failed to remedy a failure to perform the Services or has failed to remedy a failure to provide the Services to the Contract Standard including the standard required by the Schedules or these conditions of Contract in the time required to remedy such failure as expressed in writing to the Consultant.
 - (c) The Consultant or any employee of the Consultant or any person acting on behalf of the Consultant has:
 - I. given any fee or reward the receipt of which is an offence under sub-section (2) of Section 117 of the Local Government Act 1972;
 - II. at any time during the tendering process (i.e. from the date of the publication of the notice seeking expressions of interest to the date of the award of the Contract), directly or indirectly canvassed any member or official of the Council concerning the acceptance of any proposal in respect of the Contract;

- III. directly or indirectly obtained or attempted to obtain information from any member or official of the Council concerning any other proposal submitted by any other person in respect of the formation of the Contract;
- IV. committed, or attempted to commit, or failed to prevent, any offence under, but not limited to, the Acts of Parliament listed in Clause 8.

- (d) The Consultant compounds or arranges with his creditors whilst insolvent or is unable to pay its debts within the meaning of Section 123 of the Insolvency Act 1986.
 - (e) A mortgagor takes possession of the whole or a substantial part of the Consultant's property or assets or an administrator is appointed to the same.
 - (f) An order is made, or a resolution passed, for the winding up of the Consultant.
- 16.3 The Consultant may terminate the Contract if:
- (a) the Council is in breach of any of its obligations under clauses 6.1 and/or 6.2 but only after first giving the Council a reasonable opportunity to remedy its breach save that nothing in this provision shall relieve the Council of any obligation to pay interest; or
 - (b) the Consultant is professionally obligated to cease acting for the Council.

17 Termination consequences

- 17.1 In the event of the Contract being terminated for any of the reasons contained in Clause 16.2 above the Council will:
- (a) cease to be under any obligation to make further payment until the costs, loss and/or damage resulting from or arising out of the termination of the Consultant's engagement shall have been calculated; and
 - (b) be entitled to employ and pay other persons to provide and complete the provision of the Services or any part thereof; and
 - (c) be entitled to deduct from any sum or sums that would but for this Clause 17 have been due from the Council to the Consultant under this Contract or any other contract or agreement, or be entitled to recover the same from the Consultant as a debt, together with any consequent loss or damage to the Council. Such loss or damage will include the reasonable costs to the Council of the time spent by its officers in terminating the Contract, and in making alternative arrangements for the provision of the Services or any part thereof.
- 17.2 The rights of the Council under this Clause 17 are in addition to and without prejudice to any other rights the Council may have against the Consultant.

17.3 In the event that the Consultant terminates the Contract under the provisions of Clause 16.3(a) it shall be entitled to recover its reasonable expenses from the Council of recovering its unpaid invoices.

17.4 In the event that the Consultant terminates the Contract under the provisions of Clause 16.3(b) it shall provide the Council with reasonable assistance at its own cost in implementing an orderly transition to a new Consultant.

17.5 The termination of the Contract, howsoever arising, will be without prejudice to any rights or obligations theretofore accrued or to any provisions which are expressed to be performed after or to survive the termination of this Contract.

18 Delivery up of documents on termination

18.1 The Consultant or his personal representative shall upon the termination of his engagement immediately deliver up to the Council all correspondence documents specification papers and property belonging to the Council which may be in its possession or under its control.

19 Not Used.

19.1 Not used.

20 Force Majeure

20.1 If either Party is unable to carry out their respective obligations under this Contract as a result of Force Majeure then that Party shall not be liable under this Contract for such failure provided the affected Party shall have given the other notice that such failure is the result of Force Majeure within 5 business days of such failure occurring.

20.2 If an event of Force Majeure occurs then the Council and the Consultant shall meet to discuss how best to continue to provide the Services until the Force Majeure event ceases, which may include the Council providing the Consultant with assistance, where reasonably practicable.

20.3 If in the reasonable opinion of either Party the Force Majeure event is unlikely to end within 2 months of the event arising that Party may terminate the Contract with immediate effect.

21 Not Used

21.1 Not Used.

22 Variations

22.1 Except for variations within the meaning of Clause 22.2 a variation to this Contract (including to the scope and nature of the Services) shall only be valid if it has been agreed in writing and signed by both Parties ('Variation').

22.2 The Consultant shall not make a variation or supply services not specified without the written authority of the Authorised Officer.

23 Data Protection and Freedom of Information

- 23.1 The Parties agree that no Personal Data will be processed under this Contract with the exception of limited, non-sensitive Personal Data comprising names, titles and work email addresses and telephone numbers of staff engaged in contract management by the Council and contract delivery by the Consultant and names, titles and work email addresses of personnel employed by the Council's current suppliers where these are given to the Supplier for the purposes of performing the Services.
- 23.2 The Consultant shall process the Personal Data described in Clause 23.1 strictly for the purpose of performing the Services and shall not retain it after completion of the Contract or share it with any other party without the Council's express permission or to comply with any statutory obligation.
- 23.3 If at any time during the Contract Term the Council determines that it is necessary to provide additional instructions on the processing by the Consultant of Personal Data the Consultant shall promptly agree any such instructions and any obligations which the Council reasonably requires and imposes on the Consultant.
- 23.4 The Council has a number of obligations under the Freedom of Information Act 2000 (FOIA) and Environmental Information Regulations (EIR) to provide information of its functions where a person has made a request, unless the FOIA or the EIR exempts the requested information from such provision. The Consultant and his sub-contractors shall co-operate with the Council in respect of any request affecting or related to the provision of the Services by among other things providing written responses to requests as required by the Authorised Officer. The Consultant shall use all reasonable endeavours to help the Council meet its obligations under the FOIA and the EIR.
- 23.5 The Council is obliged by the Local Government Transparency Code issued by the Secretary of State under the Local Government (Transparency Requirements) (England) Regulations 2014 to publish contracts (worth more than £5,000) in their entirety, subject to redaction of commercially sensitive information, confidential information, intellectual property and data protection. The Consultant agrees that the Council may publish this Contract in its entirety and also publish performance data subject to the Council considering and properly applying those qualifications.

24 Equal Opportunities

- 24.1 The Consultant shall use all reasonable endeavours to comply with all statutory provisions, statutory instruments, rules, regulations and bye-laws relating to equality and discrimination including, but not limited to, the Equality Act 2010 and shall take all reasonable steps to ensure that its staff do not discriminate against any person because of any Protected Characteristic within the meaning of the Equality Act.

25 Policy documents

- 25.1 The Consultant shall ensure that its staff are fully conversant with and abide by any and all of the Council's policies which are relevant to the performance of the Services which have been expressly brought to its attention.

26 Not Used

26.1 Not used.

27 Complaints in Respect of Service Provision

27.1 The Consultant shall deal with any complaints received from whatever source in a prompt, courteous and efficient manner and shall keep a written record of all complaints received and of the action taken in relation to such complaints. Such records shall be kept available for inspection by the Authorised Officer at all reasonable times. The Consultant shall notify the Authorised Officer promptly in writing of all complaints received and of all steps taken or proposed to be taken in response thereto.

28 Disputes

28.1 Subject to Clause 28.3 if any dispute or difference arises out of this Contract the Parties shall meet and attempt to resolve all such disputes or differences. If within 30 days such disputes or differences cannot be resolved, then the Parties with the assistance of the Centre for Dispute Resolution seek to resolve the dispute or difference amicably by using an alternative dispute resolution ("ADR") procedure acceptable to both Parties.

28.2 If either Party fails or refuses to participate in the ADR procedure, or in the event the dispute or difference is not resolved to the satisfaction of both Parties within 30 days after it has arisen, the dispute or difference shall be referred to a sole arbiter appointed under the Rules of the Chartered Institute of Arbitrators.

28.3 Nothing in this Clause 28 (Disputes) shall operate to prevent either Party taking legal action in the courts should they consider that ADR will not adequately protect or vindicate their position.

29 Committee Meetings and other Meetings

29.1 The Consultant shall, if requested (and only to the extent reasonable and proportionate), attend Council and committee meetings, meetings of the Council Executive, meetings with members of task forces and other meetings, including but not limited to Council Scrutiny Committees. The Consultant shall be entitled to charge for basic travel expenses within London and its standard hourly charge for attendance at any such meeting.

30 Local Authority Functions

30.1 Nothing in this Contract shall prejudice or affect the Council's rights, powers, duties and obligations in relation to the exercise of its functions as a local authority.

31 Waiver

31.1 Failure by either Party to enforce or rely on at any time during or after the Term any one or more of the terms, conditions or warranties of this Contract shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions or rely on any warranties given in this Contract, nor shall such failure create an estoppel.

32 Supersedes Prior Agreements

- 32.1 This Contract supersedes any prior contracts or agreements between the Parties to provide the Services, whether written or oral, and any such prior contracts or agreements are cancelled as at the Commencement Date but without prejudice to any rights that have already accrued to either of the Parties.

33 Entire Contract

- 33.1 Each Party acknowledges that this Contract, its Schedules and any amendments or Variations that may be agreed in writing by both Parties, contains the whole agreement between the Parties relating to the subject matter of the Contract.

34 Notices

- 34.1 Any notice or other communication requiring to be served under or in connection with the Contract shall be in writing and shall be delivered to the registered offices at the addresses stated in the Contract or as otherwise specified in the Contract.
- 34.2 Any such notice shall be delivered by hand or sent by recorded first class post and shall conclusively be deemed to have been given or received at the time of delivery. The Parties agree that they will simultaneously email any notice given under this Clause 34 to the other Party's Representative or Authorised Officer, as the case may be.

35 Not Used

- 35.1 Not used.

36 Assignment and Sub-Contracting

- 36.1 The Consultant shall not assign or sub-contract the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof.

37 Third Parties

- 37.1 Neither Party intends to confer any right or benefit upon a third party and for the avoidance of doubt, the provisions of the Contract (Rights of Third Parties) Act 1999 are expressly excluded from this Contract.

38 Governing Law

- 38.1 This Contract shall be governed by English law.

Signed on the next page for and on behalf of the Parties on the day and year first above written

Signed for and on behalf of the Council (1) Name: Position: Signature:	Signed for and on behalf of the Consultant (1) Director Name: Position: Signature:
Signed for and on behalf of the Council (2) Name: Position: Signature:	Signed for and on behalf of the Consultant (2) Director Name: Position: Signature:

SCHEDULE 1

SERVICE SPECIFICATION and CONSULTANT'S PROPOSAL

The Consultant shall perform the Services in accordance with the following documents:

- Service Specification.
- Consultant's Proposal.

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SCHEDULE 2

CONTACT DETAILS

The Consultant's Representative:

For general queries in the absence of the named officer:

The Council's Authorised Officer shall be:

For general queries in absence of the named Authorised Officer.

SCHEDULE 3

PRICING DOCUMENT AND PAYMENT TERMS

PRICING

[set out payment schedule and profile – or refer to pricing in Consultant's Proposal]

PAYMENT TERMS

1. The Council operates an electronic only policy for issuing Purchase Orders and receiving invoices from consultants and contractors through an internet portal managed in partnership with the Council by a third-party provider.
2. The electronic portal is offered free of charge to consultants and contractors. The Council will direct the third-party partner to make contact with the Consultant in order to create an account within the electronic portal to enable them to invoice the Council.
3. The Consultant will be able to view its Purchase Orders and the status of its invoices within the electronic portal in real time.
4. Both the Council and the Consultant shall adhere to the following procedure in respect of invoicing and payments in respect of the Services:
 - (a) The Consultant shall submit to the Council each month (or as otherwise agreed by the Parties in writing) an invoice, by electronic means through the portal only setting out the sums for each type of work together with a record detailing the work carried out, in accordance with the prices tendered and;
 - (b) Once the Council agrees the details of the electronic invoice and the work record it will arrange payment, which will be made within 30 days of invoice date unless disputed by the Council.
 - (c) Where the Council disputes the amounts entered on an invoice the parties shall discuss the differences and the Consultant shall submit such further information as required by the Council to verify the invoice sum.
 - (d) Once agreed, the Consultant shall submit a corrected invoice as agreed pursuant to Clause 4(a), above.
5. Invoices submitted via the internet portal shall be deemed to have been received on the next working day from the date of transmission.
6. Invoices submitted by any other means shall be deemed to have been received only once those invoices reach the appropriate payment officer within the Council.