DATED 2019

**LONDON COUNCILS**

-and-

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**CONSULTANT’S APPOINTMENT**

for services in connection with

the provision of Consultancy

for Programme Management and Delivery Support

for London Ventures 2019 - 2020

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File No.

Deed No.

Date:

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**AN AGREEMENT** made the day of 2019

**PARTIES**

1. **LONDON COUNCILS** of 59½ Southwark Street London SE1 0AL; and
2. [ ] whose registered office is at a company registered in England under number ("**Consultant**")

**RECITALS**

1. London Councils is a joint committee of the 33 London local authorities constituted under an Agreement dated 13th December 2001 (as amended) in pursuance of arrangements made under sections 101(5), 101(5B), 102, 111, 112, 113, 141 and 142 of the Local Government Act 1972; section 1 of the Local Authorities (Goods and Services) Act 1970; section 9EB of the Local Government Act 2000; the Local Authorities (Arrangements for the Discharge of Functions) Regulations 2012; and all other enabling powers.
2. The joint committee was established by the participating local authorities in the interests of coordinating more effectively the formation of policy and to achieve greater efficiency in the use of their resources; and to exercise certain functions delegated it, including to consult on the common interests of the participating authorities, to represent their interests, to formulate policies for the development of effectively managed local government, to provide services to them, to enter into contracts in respect of any of the delegated functions, and further to do anything which is calculated to facilitate, or is conducive or incidental to, any of those functions.
3. London Councils invited tenders for the provision of the Services using the Open Procedure and the Consultant submitted a Tender which London Councils has accepted and requested the Consultant to carry out the Services as defined in this Agreement.
4. The Consultant agrees to carry out the Services in accordance with the terms of this Agreement.

**OPERATIVE PROVISIONS**

# DEFINITIONS & INTERPRETATION

1.1 In this Agreement the following words and phrases will where the context so permits have the meaning or meanings ascribed to them. The Interpretation Act 1978 will apply to all other expressions herein contained:

|  |
| --- |
| **“Actual income”** means money that has been paid to London Councils and is contained within the Sustainability Fund when the Term or Extended Term of this Agreement shall expire; |
| **“Apprenticeship”** means course of training relevant to the Services being provided; |
| **“Approval Process ”** means the internal governance processes which London Councils must obtain from either Capital Ambition Board or Leaders Committee before implementing the agreed Funding Model and extending the Term of this Agreement for any Extended Term; |
| **“Brand”** or “**Branding”** means the promotion of the London Ventures brand; |
| **“Budget**” shall mean the funding set out in the ITT agreed by London Councils for the first Contract Year of the Agreement |
| **“Capital Ambition Board”** is a sub Committee of London Councils’ Leaders’ Committee and shall have the meaning set out in the Glossary to the ITT. |
| **“Capital Ambition Programme”** all the projects, programmes and activities that are responsibility of the Capital Ambition Board. This includes the London Ventures Programme; |
| **“Change Request Notice** (CRN)” shall mean the document set out in Appendix F of this Agreement which both Parties shall sign in accordance with the provisions of clause 20 of the Agreement to implement the Change Request referred to in such clause; |
| **“Commencement Date”** means 23rd August 2019 or such other date as shall be agreed by the Parties for the commencement of the Services; |
| “**Confidential Information**” means all information obtained under this Agreement or in connection with the Services; |
| **“Contract Documents**”means those listed in Schedule One which documents constitute an integral part of this Agreement; |
| **“Contract Price**” means the Consultant’s tendered fixed price for the provision of the Services as set out in the Pricing Schedule to the Consultant’s Tender referred to in Schedule One of this Agreement, For the avoidance of doubt, this fixed price amount shall include all due fees, expenses and any other costs incurred by the Consultant pursuant to the delivery of the Services, and shall take account of the Budget |
| **“Consultant’s Background IPRs”** means  (i) IPR owned by the Consultant before the Commencement Date, for example those subsisting in the Consultant’s standard development tools, program, components or standard code used in computer programming or in physical or electronic media containing the Consultant’s Know How or generic business methodologies; and or including improvements to the same but excluding IPRs owned by the Consultant subsisting in the Consultant Software and including any developments or enhancements to such IPR during the course of this Agreement;  (ii) IPRs created by the Consultant independently of this Agreement;  (iii) IPRs created, conceived or developed by the Consultant before the Commencement Date or during the course of this Agreement not connected to this Agreement or sent to London Councils, including generic ideas, designs, utilities, tools, models, concepts, trade secrets, data, know-how, systems and methodologies, and utilised in the course of producing the Documents or otherwise providing the Services, but excluding any working papers compiled and sent to London Councils in connection with the Services. |
| **“Consultant Software”** means software which is proprietary to the Consultant including software which is or will be used by the Consultant for the purposes of providing the Services; |
| **“Contract Year”** means the 23rd August to 22nd August inclusive for any year of the Term; |
| **“Controller**, **Processor**, **Data Subject**, **Personal Data, Sensitive Personal Data**, **Personal Data Breach**, **Data Protection Officer”** take the meaning given in the GDPR and the Data Protection Act 2018 |
| **“Data Loss Event”** means any event that results, or may result, in unauthorised access to Personal Data held by the Consultant under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach |
| **“Data Protection Impact Assessment”** means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data |
| “Data Protection Legislation” means on and after 25 May 2018, Regulation 2016/679 of the European Parliament and of the Council 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 (General Data Protection Regulations), the Data Protection Act 2018 to the extent that it relates to processing of personal data and privacy; and all Law relating to the processing of Personal Data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner. |
| **“Data Protection Schedule** or **DP Schedule”** means namely the Appendix G to this Agreement |
| **“Data Subject Access Request”** means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data; |
| **“Default”** means any breach of the obligations (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission negligence or statement of the Consultant, its employees, agents or sub-contractors in connection with or in relation to the subject matter of the Agreement and in respect of which the Consultant is liable to London Councils; |
| **“Deliverables”** means any reports, recommendations, specifications, products, papers, written advice, expert witness reports, documentary evidence, advertising materials, databases, sketches, drawings, designs, logos and any other documents and information in any way specifically prepared by the Consultant in connection with the Services whether or not in existence prior to the commencement Date of this Agreement |
| **“Delivery Plan”** means the document produced by the Consultant more particularly referred to in 6.3 to 6 “ The Requirements” of the Services Specification to the ITT ; |
| **“Design Guide”** means the document setting out London Councils’ guidelines how the Brand must be used a copy of which is appended to Appendix A of this Agreement; |
| **“DPA 2018”** means the Data Protection Act 2018 |
| **“Exit Plan”** means the document to be produced and agreed by the Parties setting out the provisions for exit of the Agreement in accordance with clause 15.5 of this Agreement and Appendix E; |
| **“Extended Term”** means a period not exceeding up to two Contract Years and shall be subject to the Approval Process Conditions referred to in clause 3 of this Agreement; |
| **“Funding”** shall mean the additional funds which London Councils shall require in order to implement any agreed Funding Model |
| “**Funding Mode**l” means the agreed funding option developed from the Options produced by the Consultant, and which will be subject to legal advice and for objective consideration by London Councils as set out in KPI No 4; |
| “**Future Incom**e” means the Income generated from contracts signed between a Local Authority (LA) and a London Ventures Partner to deliver a London Ventures product or service where there is a return to the London Ventures Programme after the cessation of the Agreement; |
| **“GDPR”** means the General Data Protection Regulation *(Regulation (EU) 2016/679)* |
| ***“*General Ventures”** is a catalogue for innovation andshall have the meaning set out in the Glossary to the ITT |
| ***“*Glossary”** means namely Appendix 7 “Glossary of London Ventures Terms and references”; |
| **“Income”** means the contributions made from London Ventures Partners to London Councils as referred to in sub-clause 4.2 of this Agreement; |
| **“Intellectual Property Rights”** means:  (i) copyright rights related to or affording protection similar to copyright, rights in databases, patents and rights in inventions, semi- conductor topography rights, trade marks, rights in internal domain names and websites addresses and other rights in trade names, designs, Know-How, trade secrets and other rights in Confidential Information.  (ii) applications for registration, and the right to apply for registration, for any of the rights listed at (a) that are capable of being registered in any country or jurisdiction and  (iii) all other rights have equivalent or similar effect in any country or jurisdiction. |
| **“ITT”** means the Invitation to Tender for the provision of Consultancy Services for Programme Management and Delivery Support for London Ventures 2019 -2020 |
| **“Key Deliverables”** shall mean those key factors set out in sections 6.8. and 6.9 of the Service Specification to the ITT upon which the Consultant’s performance of the Services will be measured by London Councils; |
| **“Know-How”** means all ideas, concept, schemes, information, knowledge, techniques, methodology, and anything else in the nature of know how relating to the provision of the Services but excluding know how developed for the purposes of this Agreement and for the purposes of providing the Services or already in the Consultant’s or London Councils possession before this Agreement; |
| **“KPIs”** means those Key Performance Indicators set out in Appendix 5 “ London Ventures KPIs” of the ITT upon which the Consultant’s performance of the Services will be measured by London Councils; |
| **“Leaders Committee”** shall have the meaning set out in the Glossary to the ITT; |
| **“Limitation Period”** means unless otherwise stated in the Agreement the period of 12 years commencing from either the date of completion of the whole Services, or (if earlier) the date upon which the Consultant’s engagement under this Agreement is terminated; |
| **“London Ventures”** shall have the meaning set out in the Glossary to the ITT; |
| **“London Ventures Management Group”** means the group comprising representatives from London Councils and the Consultants appropriate representatives which considers the progress of the Services and performance of the Consultant; |
| **“London Ventures Partner”** means a third party that has a product/service approved for inclusion in the London Ventures Programme; |
| **London Ventures Programme"** means the programme designed to bring together companies, investors and particular local authorities to enhance innovation and cost effectiveness in delivery of the capital’s public services; |
| **“LVBG”** means the London Ventures Brand Guidelines set out in Appendix A of this Agreement; |
| **“Management Information”** means the reports referred to in the ITT which the Consultant is to provide to London Councils pursuant to clause 5.10 of this Agreement; |
| “**Minimum working capital”** shall have the meaning set out in the Glossary to the ITT and referred to in 3.1 of the ITT; |
| **“Open Procedure”** means that set out in Regulation 27 of the Public Contracts Regulations 2016; |
| **“Operational Date”** means the date that the Change Request is to be implemented from; |
| **“Options”** means namely the future funding options for the London Ventures Programme which will be developed by the Consultant |
| **“Outgoing Consultant”** means the third party who provided the Services previously to London Councils before this Agreement was entered into; |
| **“Parties**” means London Councils and the Consultant; |
| **“Policies of London Councils**" means respectively the Financial Regulations, London Councils’ Protocols, Standing Orders (as may be amended from time to time) and Equal Opportunities Policy of London Councils, currently in force, copies of which can be obtained from the Supervising Officer; |
| **“Protective Measures”** means appropriate technical and organisational measures which may include pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it; |
| **“Requests for Information”** means set out in the FOIA or any apparent request for information under the FOIA or EIR; |
| **“Review”** shall mean the Review to be undertaken by London Councils to determine whether or not to continue with the London Ventures Programme and extend the Agreement beyond the Term; |
| **"Services**" means those services defined in Schedule One; |
| “Staff” means the personnel namely all persons employed by the Consultant to perform its obligations under the Agreement together with the Consultant's servants, agents, consultants and sub-contractors used in the performance of its obligations under the Agreement; |
| **“Stage**" means any stage or point of progress in the execution of the Services if any as will be set out and so defined in Schedule One; |
| **“Sub-Processor”** means any third Party appointed to process Personal Data on behalf of the Consultant related to this Agreement |
| "**Supervising Officer**" means the person so named in Schedule One or any person designated or nominated by London Councils as its representative in writing in relation to instructions to, and receipt of information, documents, etc from the Consultant under this Agreement; |
| **“Sustainability Fund”** shall have the meaning set out in the Glossary to the ITT; |
| **“Targeted Venues”** is a development process and shall have the meaning set out in the Glossary to the ITT; |
| **“Term”** means a period of 1 Contract Year from the Commencement Date and any extension to that agreed pursuant to clause 3, subject to earlier termination of this Agreement; |
| **“Third Party Background IPRs**” means IPR owned by any third party, other than an affiliate of the Consultant, before the Commencement Date, for example those subsisting in the third party’s standard development tools, program components or standard code used in computer programming or in physical or electronic media containing the third party’s Know How or generic business methodologies, and/or but excluding IPRs owned by the third party subsisting in the Consultant Software; |
| “TUPE” means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246). |

1.2 Headings are for information only and do not form part of this Agreement.

* 1. A reference to any Act of Parliament or to any Order, Regulation, Statutory Instrument, enforceable EU Legislation, Code of Practice or the like will include reference to any amendment or re-enactment of the same.
  2. Words importing the masculine gender include the feminine gender; words in the singular include the plural and vice versa and words importing individuals will be treated as importing corporations, companies and/or partnerships and vice versa.
  3. The terms of this Agreement will be the sole terms applying to the Services and all other conditions of contract, or terms of trade, supplied by the Consultant are specifically excluded and do not amend, or in any way displace the conditions of this Agreement.

# SERVICES

* 1. **Duty of Care** 
     1. London Councils engages the Consultant and the Consultant agrees to carry out the Services and all its duties and obligations under the Agreement exercising the standard of reasonable skill, care and diligence to be expected of a proper qualified professional person experienced in undertaking services comparable in size, scope, complexity and purpose to the Services,
     2. London Councils will be relying upon the Consultant’s skill and expertise in the provision of the Services and also upon the accuracy of all statements made and advice given by the Consultant in connection with the provision of the Services and the accuracy of any documents, reports or other materials drawn up or created by the Consultant in relation to the same, subject always to the Consultant’s obligations set out in Clause 2.1.
  2. **Compliance** 
     1. The Consultant will, in the execution of the Services, take account of any Statute, Statutory Instrument, Byelaw, relevant British Standard (or equivalent European Standard) or other mandatory requirement or Code of Practice and the Policies of London Councils, which may be in force, or come into force, during the execution of the Services.
     2. Without limitation to sub-clause 2.1.1 the Consultant must :-
* Comply with the provisions of the Bribery Act 2010, and in particular Section 7 of that Act in relation to the conduct of its employees, or persons associated with it;
* Not unlawfully discriminate within the meaning and scope of the Equality Act 2010.
* Comply with applicable requirements of the Modern Slavery Act 2010.
  + 1. The Consultant warrants that, at all times, it shall have in place adequate procedures designed to prevent acts of bribery from being committed by its employees or persons associated with it, and shall provide to London Councils at its request, within a reasonable time, proof of the existence and implementation of those procedures.
    2. The Consultant will take all necessary steps to secure the observance of the provisions of sub-clause 2.1.3 of all its employees, agents, sub -contractors and suppliers engaged in the execution of the Services.
    3. London Councils is entitled by notice to the Consultant to terminate the Consultant’s engagement under this Agreement or any other contract with the Consultant if, in relation to this Agreement or any other such contract, the Consultant or any person employed by it or acting on its behalf fails to comply with the requirements set out in sub-clause 2.1.2 of this Agreement.
  1. **Time for Performance**

**NOTE TO TENDERERS - THE TIME FOR PERFORMANCE IN PARTICULAR FOR THE DEVELOPMENT AND SUBMISSION OF THE CONSULTANT’S OPTIONS FOR THE FUNDING MODEL WILL BE AGREED WITH THE SUCCESSFUL TENDERER IN CONSULTAITON WITH LONDON COUNCILS.**

* + 1. The Services will be performed by the Consultant exercising the level of skill, care and diligence referred to in sub-clause 2.1 having due regard to the time limits stated in the Agreement of ( if none are stated) within a reasonable time.
    2. If the Agreement indicates the Services are to be carried out in stages, the Consultant will not proceed with any stage without the prior written authority of the Supervising Officer, and any other Approval which shall be required in accordance with the terms of this Agreement,
  1. **Personnel** 
     1. The Consultant will provide suitably qualified personnel “The Consultant Team” to carry out the Services exercising the standard of reasonable skill, care and diligence required pursuant to sub-clause 2.1 of this Agreement having regard to current knowledge, information and good practice.
     2. Where to the Agreement identified any of the Consultant’s Team are “Key Personnel” the Consultant will procure that such Key Personnel will :-
* Devote sufficient timer and attention fulfilling their respective roles in connection with the provision of the Services.
* Are not removed without London Councils prior written consent ( such consent not to be unreasonably withheld or delayed) except in the event of:

1. death

permanent incapacity

an illness making the relevant individual unavailable for work

* + 1. London Councils may at any time instruct the Consultant to remove any person engaged in performing the Consultant’s obligations/duties pursuant to the Agreement, if in London Councils reasonable opinion, the person’s performance or conduct is unsatisfactory. The Consultant will remove any person promptly.
       1. Any personnel appointed by the Consultant to replace persons removed under sub-clause 2.3.2 will be subject to London Councils prior written consent ( such consent not to be unreasonably withheld or delayed).
  1. **Collaboration and attendance.** 
     1. The Consultant will collaborate and work in consultation with any other consultants or contractors appointed now, or at any time by London Councils, during the execution of the Services.
     2. The Consultant will, if so required, attend upon a Committee of London Councils, or any statutory or public body, on any matter concerning the Services and will attend any meetings called by London Councils and make such reports concerning the Services as London Councils may reasonably require.

# COMMENCEMENT, DURATION & EXTENSION

* 1. This Agreement shall commence on the Commencement Date and unless terminated earlier or extended in accordance with the terms hereof shall remain in full force for the Term from the Commencement Date.
  2. No later than 14 days ( or such other period as shall be agreed by the Parties) before the Commencement Date of the Agreement, the Consultant shall arrange a pre-commencement meeting which shall be attended by representatives of the Outgoing Consultant (if applicable) and any representatives London Councils shall determine as necessary.
     1. At the pre-commencement meeting, the attendees shall discuss a plan for the implementation and handover necessary for the smooth, seamless and successful transition of the Services from the Outgoing Consultant to the Consultant and such plan shall be subsequently agreed by the Parties in writing.
     2. The Consultant shall liaise with the Outgoing Consultant to ensure that the handover is carried out successfully. In addition, the Consultant shall attend as many meetings with London Councils and the Outgoing Consultant as are reasonably necessary for the successful handover of the Services to enable the Programme to continue without any disruption in the Service.
     3. In addition to the foregoing the Consultant shall carry out or provide to London Councils (as applicable) as soon as practical before the Commencement Date:
        + proof of the insurance held pursuant to clause 7 and Schedule One of this Agreement;
        + measures to ensure that the Consultant , its staff and agents are fully familiar with the provisions of the Agreement, their obligations under this Agreement and the Consultant’s computer systems (if applicable);
        + the identities, positions and responsibilities and contact details of all relevant key personnel and authorised confidentiality agreements which may be required by each member of key personnel.
     4. London Councils shall provide all reasonable assistance to the Consultant further to the Commencement Date, to include where possible, the following:

1. allowing the Consultant to interview appropriate staff;
2. report to the Consultant on current issues which may affect the provision of the Services.
   1. Within three months of the Commencement Date, London Councils and the Consultant will agree in writing a document to be known as the Exit Plan which may be updated from time to time detailing the arrangements for a transfer of the Services to another party on the expiry or termination of this Agreement. The arrangement shall include without limitation the Parties’ rights in relation to termination, IPRs, payment, the handover of the Services provision and potential TUPE issues on exit of the Agreement.
   2. London Councils reserves the right to extend the Term of this Agreement for the Extended Term subject to the following:
      * The satisfactory performance of the Consultant’s obligations under the Agreement;
      * The KPIs and the Key Deliverables being met by the Consultant ;
      * London Councils receiving the Funding available to implement the Funding Model;
      1. London Councils shall also reserve the right to extend the Term of this Agreement for any Extended Term where the London Ventures Programme achieves a significant increase in income generation even where no Funding Model develop-ed by the Consultant has been agreed upon
      2. No later than **the 16th July 2020** or such other date as shall be agreed by the Parties, London Councils shall advise the Consultant in writing whether it wishes to extend the Term **for any Extended Term** . In the event that London Councils shall give such notice, the parties shall enter into negotiations in good faith to agree the terms of the extension and subject to mutual agreement thereon the Agreement shall be extended for the agreed Extended Term. Any extension to the Agreement will be recorded by way of a Deed of Variation being entered into between the Parties. The Deed of Variation shall contain the following information:-
3. the duration of any agreed Extended Term.
4. the revised Contract Price which shall be negotiated between the parties
5. any other terms and conditions agreed between the parties .
   * 1. For the avoidance of doubt any extension to the Term of this Agreement under this clause 3 shall be subject to the Approval Process.

# REVIEW & PASSPORT OF FUNDS

* 1. London Councils reserves the right to:-
     1. introduce at its sole discretion a Review in order to:

1. assess the performance of the Consultant
2. determine the level of interest in the Programme shown by the London Boroughs and the private sector, and
3. decide whether to continue with the London Ventures Programme and therefore extend the Agreement beyond the Term at the end of the first Contract Year.
   * 1. terminate the Agreement in accordance with the provisions of sub-clause 15.1.1 where after undertaking the Review referred to in sub-clause 4.1.1 London Councils deems:
4. the performance of the Consultant does not meet London Councils expectations; or
5. there is insufficient evidence to indicate that the Programme has generated the level of interest by London Boroughs and/ or the private sector

and as a result, London Councils decides not to continue with the London Ventures Programme and extend the Term of the Agreement for the Extended Term.

* 1. For the avoidance of doubt, the Consultant will broker commercial arrangements taking in consideration the Targeted Ventures outputs between London Councils and each London Ventures Partner regarding their involvement in the programme including among other things the financial return to the London Ventures Programme from the partner’s involvement which may also include the Minimum working capital with the London Venture Partner . All arrangements regarding the contracting and procurement of a London Venture product/service by a local authority with a London Venture Partner will be signed solely between those two parties. Each local authority shall be responsible for assessing the suitability of the product/service and the commercial arrangements for its own specific requirements. London Councils will act as “banker” for the Programme for the purposes of passporting funds, and all income generated from the Programme will be paid to London Councils who will then transfer the funds to the appropriate party.
     1. The Sustainability Fund shall be managed and controlled by London Councils in accordance with London Councils Financial Regulations.
     2. All Income generated from a successful implementation of the London Ventures product or service shall be kept in the Sustainability Fund which is managed and controlled by London Councils.
     3. Should the London Ventures Programme cease during the Term or Extended Term of the Agreement, and there is accrued Income in the Sustainability Fund then, the Consultant acknowledges, and accepts that, such residual Income will be retained by London Councils.

# CONTRACT STANDARD, CONTRACT MANAGEMENT AND MANAGEMENT INFORMATION

* 1. The Consultant shall perform the Services in accordance with the terms of this Agreement and to the following Contract Standard
* The Service Specification set out in the ITT.
* The Key Deliverables
* The KPIs
* The reasonable instructions issued to the Consultant by London Councils pursuant to, and consistent with the terms of, this Agreement.
* All legislation, regulations, EU regulations and directives, EU guidance and UK government guidance, bye-laws and any other rule or regulation relevant to the performance of the Services.
  1. In accordance with clause 20, the Parties may vary any of the KPIs or the method of measuring the performance of the Services by the Consultant by agreement in writing between them.
  2. The Parties shall work together and individually in the spirit of trust, fairness and mutual co-operation for the benefit of this Agreement, within the scope of their agreed roles, experience and responsibilities as stated in the Agreement, and all their respective obligations under the Agreement shall be construed within the scope of such roles, expertise and responsibilities and in all matters governed by the Agreement they shall act reasonably and without delay.
  3. The London Ventures Management Group will meet for the duration of the Term of this Agreement on at least a monthly basis (unless there are reasonable circumstances to alter the meeting dates) .The frequency of which may be increased or decreased based upon the Consultant’s level of progress and the need for London Councils input and guidance on developing the Programme. Thereafter the London Ventures Management Group shall meet as agreed between the Parties.
  4. London Councils may call urgent meetings of the London Ventures Management Group by giving seven days’ notice should any issues arise relating to major changes to the Services or concerns about the Consultant’s performance.
  5. The Consultant will be expected to attend a Capital Ambition Board meeting as required to present upon overall progress of the provision of the Services and achievements relating to the Programme and any specific areas that the Consultant is responsible for delivering upon.
  6. The Consultant will provide the relevant performance information, KPI progress and other relevant quantitative and qualitative information to London Councils.
  7. Each Party shall notify the other as soon as it is aware of any matter adversely affecting or threatening the provision of the Services or of its own performance under the Agreement and shall submit (within the scope of its agreed role, expertise and responsibilities) proposals for avoiding or remedying such matter.
  8. Following such notification, London Councils shall convene a London Ventures Management Group meeting within seven working days from the date of any such notification to consider an appropriate course of action unless the Parties agree an appropriate course of action before such meeting is convened.

## This Agreement will require Management Information regarding London Ventures Programme projects identified, in approval and in-progress. The final nature, content and frequency of reporting will be agreed between London Councils and the Consultant.

* 1. If London Councils considers that the Services or any part of them have not been undertaken or have been carried out inadequately or otherwise not in accordance with the Contract Documents, London Councils may (without prejudice to any other right or remedy available to London Councils) give written notice to the Consultant setting out in general terms the matter, or matters, giving rise to such notice and containing a reminder to the Consultant of the implications of such notice. Any such notice will state on its face that it is a “Default Notice” and will be signed by the Supervising Officer on behalf of London Councils.
     1. In the event that more than three Default Notices have been issued to the Consultant in any Contract Year of the Term or Extended Term, or if the Consultant fails to achieve the minimum standards specified which is set out in the Contract Documents, London Councils may terminate the Consultant’s employment under this Agreement in whole, or in part, immediately by notice in writing to the Consultant.

# PAYMENT, PARENT COMPANY GUARANTEE AND AUDIT

* 1. In consideration of the Consultant carrying out the Services in accordance with the terms of this Agreement, London Councils will pay to the Consultant fees upon the basis agreed between the parties and contained in Schedule One together with any correctly charged V.A.T. that is applicable.
  2. Where it is agreed that Stage payments are to be made to the Consultant by London Councils, these payments shall be made at the intervals, or on the dates set out in Schedule One which shall be the payment due date under this Agreement. Payment for the Services will, unless otherwise agreed in writing, be made by London Councils within 28 days of receipt of a valid invoice and fee account (accompanied by detailed timesheets where requested or such other supporting evidence as may be reasonably requested by London Councils) which shall be the final date for payment under this Agreement.
  3. As a condition precedent to payment London Councils purchase number must be indicated on any invoice submitted by the Consultant relating to the Services. London Councils will be entitled to reject any invoice submitted by the Consultant if London Councils relevant purchase order is not stated on the invoice. Invoices submitted by the consultant will be considered and verified by London Councils in a timely fashion and undue delay in doing so will be insufficient justification for failing to regard an invoice as valid and undisputed.
  4. Without waiver, or limitation, of any rights or remedies London Councils will be entitled to withhold, deduct or set-off from any amounts due or owing by London Councils to the Consultant in connection with this Agreement any losses, costs or damages arising from the Consultant’s breach of this Agreement or any other agreement between the parties subject always to London Councils giving the Consultant written notice not later than 5 Working Day before the final date for payment of the amount due, which will specify any amount proposed to be withheld, deducted or set-off, the ground or grounds for such withholding and/or deduction.
  5. The consideration payable to the Consultant will be subject to audit by London Councils and the Consultant will upon request make available all accounts records and other documents reasonably required for such purpose.
  6. Not later than **[ ]**, the Consultant agrees to deliver to the City a guarantee, substantively in the form of the draft attached to this Appendix D of this Agreement, duly executed by **[** *Limited/PLC***] OR [***the Contractor’s ultimate holding company*

**NOTE TO TENDERERS – LONDON COUNCILS RESERVES THE RIGHT TO CALL FOR A PARENT COMPANY GUARANTEE IN ACCORDANCE WITH LONDON COUNCILS FINANCIAL REGULATIONS IF IT IS DETERMINED BY LONDON COUNCILS THAT A PARENT COMPANY GUARANTEE IS NECESSARY.**

* 1. During the course of the Services and for the Limitation Period, London Councils may conduct or be subject to an audit for the following purposes:
     1. to verify the accuracy of the fees paid to the Consultant (and proposed or actual variations to it in accordance with this Agreement) and/or the costs of all suppliers (including sub-contractors) for the Services ;
     2. to review the integrity, confidentiality and security of any data relating to London Councils;
     3. to review the Consultant’s compliance with the Data Protection Legislation or any other applicable law ;
     4. to review any records created during the course of the Services;
     5. to review any books of account kept by the Consultant in connection with the provision of the Services;
     6. to carry out the audit and certification of London Councils accounts;
     7. to carry out an examination pursuant to any legislation applicable to the economy, efficiency and effectiveness with which London Councils has used its resources; or
     8. to verify the accuracy and completeness of any reports delivered or required by this Agreement.
  2. Except where an audit is imposed on London Councils by a regulatory body, London Councils may not conduct an audit under this clause 6 more than once in any calendar year.
  3. London Councils will use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Consultant or delay the provision of the Services.
  4. Subject to London Councils obligations of confidentiality, the Consultant must on demand provide to London Councils 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 reasonably requested by the above persons within the permitted scope of the audit;
     + reasonable access to any sites controlled by the Consultant in the performance of the Services; and
     + access to the Consultant’s personnel.
  5. London Councils will endeavour to (but is not obliged to) provide at least 10 Working Days’ notice of its or, where possible, a regulatory body’s intention to conduct an audit.
  6. The Parties agree to bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause 6, unless the audit identifies a material failure of the Consultant to perform its obligations under this Agreement in which case the Consultant must reimburse London Councils for the London Councils reasonable costs incurred in the course of the audit.

# INSURANCE AND LIABILITY

* 1. Without prejudice to the Consultant’s liability to indemnify London Councils under sub-clause 7.2 the Consultant will take out and maintain for the duration of the Services (and thereafter use reasonable endeavours to maintain until the expiry of the Limitation Period) those Insurances specified in Schedule One of this Agreement in each case with a limit of indemnity of not less than that set out in Schedule One.
  2. The Consultant will produce documentary evidence to London Councils that all insurances required under the Agreement are properly maintained when requested to do so. If the Consultant fails to maintain the Insurances specified in Schedule One, without limitation to any other remedy. London Councils may take out and arrange such Insurances and the cost of any premium it incurs will be deducted from any money, which is, or becomes due to the Consultant from London Councils , or may be recovered as a debt due from the Consultant to London Councils.
  3. The Consultant will be liable for and will keep London Councils, its employees. and agents indemnified against any expense, liability, loss, claim or proceedings whatsoever arising under any statute or at common law in respect to:
     1. personal injury to, or the death, or any person whomsoever; and
     2. any loss or damage to property (real and personal)

to the extent that it is due to the negligence, or breach of statutory duty on the part of the Consultant, its servants or agents and arises out of , or during or caused by, the carrying out of the Services.

* 1. Limitation of Liability

The Consultant’s liability to London Councils for any matter arising under or in connection with this Agreement shall be as set out in the following table for those risks referred to therein for any one event and applies in contract, tort and otherwise to the extent allowed under the Governing Law.

|  |  |
| --- | --- |
| **Liability:** | **Limitation of liability:** |
| Claims relating to death or personal injury resulting from negligence | Unlimited |
| Claims relating to fraud or fraudulent misrepresentation | Unlimited |
| Claims relating to any matter or liability that cannot legally be limited or excluded | Unlimited |
| Claims for GDPR risk under clause 11 “Data Protection” | Unlimited |
| Claims for general breaches and any other liability set out in the Agreement | £5m |

* 1. Indirect Loss
     1. Subject to clause 7.6, in no event is the Consultant liable to the Consultant for any:
* loss of profits;
* loss of business;
* loss of revenue;
* loss of or damage to goodwill;
* loss of savings (whether anticipated or otherwise); and/or
* any indirect, special or consequential loss or damage.
  1. Direct Loss
     1. Subject to clause 7.5.1, the Consultant is liable for the following types of loss, damage, cost or expense which is regarded as direct and will (without in any way limiting other categories of loss, damage, cost or expense which may be recoverable by London Councils) be recoverable by London Councils
* any regulatory losses or fines arising directly from a breach by the Contractor of the governing law; and
* any additional operational and/or administrative costs and expenses arising from any material breach of the Consultant’s obligations pursuant to this Deed.
  1. Non-Excluded Liability
     1. Neither party excludes or limits its liability for:
* death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors;
* bribery, fraud or fraudulent misrepresentation by it or its employees; or
* an intentional breach by the Consultant or London Councils of its obligations pursuant to this Agreement .
  1. Force Majeure
     1. Neither party will be liable to the other in respect of loss, damage or delay if the cause of such loss, damage or delay arises from any act of government or other competent authority, flood, storm, tempest or other freak of nature, riot, civil war or commotion action of hostile foreign state (whether or not a formal declaration of war has been made given or received), fire, explosion, malicious damage (other than arising from the acts of defaults of the party claiming relief or their employees, servants, agents, sub-contractor or other persons over whom such party has direct or contractual control), Act of God or other force majeure occurrence which could not have been avoided or mitigated by the application of due diligence or foresight.
     2. Industrial relations difficulties and failure to provide adequate premises, equipment, materials, consumables and/or staff, or similar matters which a prudent and diligent Caterer could have avoided with the application of foresight are not be considered as events of force majeure under sub-clause 7.8.

# INTELLECTUAL PROPERTY RIGHTS

* 1. Upon completion of the Services or earlier termination of the Consultant’s engagement under Clause 15 all of the Deliverables produced in the performance of the Services and advice produced in the performance of the Services, including but not limited to reports, recommendations, expert witness reports, documentary evidence, advertising materials, databases, sketches, drawings, designs, logos and other documents and information in any way specifically prepared by the Consultant in connection with the Services whether or not in existence prior to the commencement Date of this Agreement (“**Documents**”) but excluding the Consultant's internal working papers, the Consultant Software, the Consultant’s Background IPRs, the Third Party Software and the Third Party Background IPRs, will immediately be delivered to and become the property of London Councils in all respects and the Consultant hereby assigns full copyright and future copyright and all other intellectual property rights in the Documents to London Councils.
     1. Notwithstanding the provisions of clause 8.1 above any product or Deliverables developed out of the provision of the Services shall become and remain the property of London Councils in all respects and any IPR arising out of such product or services shall by virtue of this Agreement be transferred to and become the property of London Councils
  2. In addition to the assignment/licensing of copyright in the Documents and notwithstanding any other provision of this Agreement, the Consultant will on completion of the Services or earlier termination of the Consultant’s engagement under clause 15 of this Agreement, assign and transfer all database rights, patents, registered and unregistered designs, logos, internet domain names, business or trade names and registrations, and all registered and unregistered trademarks, (and any applications for registration therefor if any) specifically prepared for London Councils under this Agreement or for the purposes of entering into this Agreement but excluding the Consultant's internal working papers, the Consultant Software, the Consultant’s Background IPRs, the Third Party Software and the Third Party Background IPRs.
  3. In addition to the assignment/licensing and assignment of the intellectual property rights under Clauses 8.1 and 8.1.1 above, the Consultant hereby grants to (or shall procure for the benefit of) London Councils, a non-exclusive licence to use as necessary to receive the benefit of the Services all background and third party information and materials (“Materials”) in any way used by the Consultant in preparation of the Documents and any of the rights, names or marks provided above.
     1. For the avoidance of doubt, the Consultant Software and the Third Party Software will remain the property of the Consultant or the Third Party as appropriate at all times and is not included in the licence requirements set out in clause 8 of this Agreement.
  4. To the extent necessary for the on-going use of the delivered product or the Services, grant to (or shall procure for the benefit of) London Councils a non-exclusive licence to use their or appropriate third party logos, trademarks and other intellectual property together with all appropriate hosting agreements, websites and other software in accordance with agreed guidelines or conditions for the purposes of the Services and any on-going Programme activities as set out or referred to in the Contract Documents.
  5. The Consultant acknowledges that Copyright and all other intellectual property rights in this Agreement including (but not limited to) London Councils’ requirement/specification/design brief as referred to in the ITT including (but not limited to) all documents and materials together with any images, designs, Brands or Branding, logos and layouts and all patents, domain names, business or trade names and trademarks (whether registered, unregistered, applied for or pending or otherwise) and all other intellectual property rights included therein, shall at all times remain vested in London Councils or other owners and London Councils herby grants to the Consultant a limited license to use such London Councils’ requirement/specification/design brief Documents and Materials etc. solely for the purposes of providing the Services to London Councils and for no other purpose whatsoever.
     1. Notwithstanding that this Agreement and the Services performed under it shall become the award of this Agreement and its continued subsistence is conditional upon the use by the Consultant of the London Councils logo, logotype and LVBG B throughout the Term in accordance with the Design Guide set out in Appendix A of this Agreement.
     2. For the avoidance of doubt, the London Councils logotype is an integral part of the organisation’s visual presentation and must appear on the front cover of any London Ventures publications whether produced by the Consultant or otherwise.
  6. The Consultant acknowledges that London Councils may withhold any sums due under this Agreement if the Consultant fails to comply fully with the provisions of this Clause 8 until such time as the Consultant so complies.
  7. The Consultant warrants that it has power and necessary authority to enter into this Agreement and to grant the rights and licences in the Documents and Materials and that the use.

# DELEGATION & THIRD PARTY RIGHTS

* 1. The Consultant will not, unless otherwise agreed with London Councils in writing, sublet to, or sub-contract with, any third party for all, or any part, of the Services.
  2. The Consultant must not appoint a sub-contractor or supplier in relation to the Services if there are compulsory grounds for excluding the sub-contractor or supplier under Regulation 57 of the Public Contracts Regulations 2015. The Consultant must include in any sub-contract awarded by it in relation to the Services provisions requiring that :-
* payment due to the sub-contractor or supplier under the sub-contract is made no later than 30 days after receipt of a valid and undisputed invoice, unless the Agreement requires the Consultant to make earlier payment to the sub-contractor or supplier;
* invoices for payment submitted by the sub-contractor or supplier are considered and verified by the Consultant in a timely fashion
* undue delay in considering and verifying invoices is not sufficient justification for failing to regard an invoice as valid and undisputed, and
* any contract awarded by the sub-contractor or supplier in relation to the Services includes provisions to the same effect as this sub-clause 9.2.
  1. The Consultant will not assign, or transfer, the benefit, or obligations of this Agreement, or any part of them. London Councils may assign any benefit, right or other interests in the Agreement by way of absolute legal assignment only.
  2. Notwithstanding any other provision herein contained, nothing in this Agreement confers, or purports to, confer any rights to enforce any of its terms pursuant to the Contracts (Rights of Third Parties) Act 1999 on any person who is not a party to this Agreement.

# CONFIDENTIALITY/PUBLICITY

* 1. The Consultant will only divulge Confidential Information only to those employees who are directly involved in the Services, or are engaged in the support of them, and will ensure that such employees are aware of, and will comply with, these obligations as to confidentiality.
  2. The Consultant will not advertise, or publicly announce that it is undertaking work for London Councils, nor will it make any press release, or statement, without the prior written consent of London Councils.
  3. The Consultant agrees and warrants that it will not without the prior express written consent of London Councils:
* use for its own benefit or otherwise exploit any Confidential Information as referred to in Clause 10.2 above nor divulge to any other party that the Consultant intends to, or has tendered for, or been appointed to perform, the Services;
  + disclose any Confidential Information, in whole or in part, to any third person, firm, corporation, or other such similar entity or otherwise use such information to the detriment of London Councils for example, but not limited to, the pursuit of a business opportunity;
  + use the Confidential Information for any purpose whatsoever other than that for which the Consultant is specifically given access; or
  + use the Confidential Information for any illegal or immoral purposes.
  1. The Consultant will take all reasonable precautions necessary to safeguard the personal nature of the Confidential Information and will advise and inform its personnel and agents to strictly observe such obligations.
  2. All notes, data, reference materials in any way incorporating, or reflecting, any of the Confidential Information will belong exclusively to London Councils and , the Consultant agrees to hand over all copies of such materials in its control to London Councils upon request, or upon completion of the Services or upon termination of the Consultant’s engagement under this Agreement.
     1. and legally possible; and/or
     2. is disclosed by the Consultant (or any of its Representatives) with the prior written approval of London Councils.

# DATA PROTECTION

* 1. The Parties acknowledge that for the purposes of the Data Protection Legislation, London Councils is the Controller In respect of London Councils Personal Data. London Councils Data Protection Officer is London Councils Corporate Governance Manager and the Consultant is the Processor. For the avoidance of doubt the only processing that the Consultant is authorised to do is listed in the DP Schedule by the Controller and may not be determined by the Consultant. .
  2. The Consultant shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
  3. Where required by the Controller, the Consultant shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:

(a) a systematic description of the envisaged processing operations and the purpose of the processing;

(b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;

(c) an assessment of the risks to the rights and freedoms of Data Subjects; and

(d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

* 1. The Consultant shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
     1. process that Personal Data only in accordance with the DP Schedule, unless the Consultant is required to do otherwise by Law. If it is so required, the Consultant shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
     2. ensure that it has in place Protective Measures, which have been reviewed and approved by the Controller as appropriate to protect against a Data Loss Event having taken account of the:
     + nature of the data to be protected;
     + harm that might result from a Data Loss Event;
     + state of technological development; and
     + cost of implementing any measures;
     1. ensure that:

the Consultant Personnel do not process Personal Data except in accordance with this Agreement (and in particular the DP Schedule);

it takes all reasonable steps to ensure the reliability and integrity of any Consultant Personnel who have access to the Personal Data and ensure that they:

* + - are aware of and comply with the Consultant’s duties under this clause;
    - are subject to appropriate confidentiality undertakings with the Consultant or any Sub-Processor;
    - are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement;
    - have undergone adequate training in the use, care, protection and handling of Personal Data; and
    1. not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
    2. the Controller or the Consultant has provided appropriate safeguards in relation to the transfer (in accordance with GDPR Article 46) as determined by the Controller;

1. the Data Subject has enforceable rights and effective legal remedies;
2. the Consultant complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
3. the Consultant complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
   * 1. at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Consultant is required by Law to retain the Personal Data.
   1. Subject to clause 11.6, the Consultant shall notify the Controller immediately if it:
      1. receives a Data Subject Access Request (or purported Data Subject Access Request);
      2. receives a request to rectify, block or erase any Personal Data;
      3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
      4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
      5. receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
      6. becomes aware of a Data Loss Event.
   2. The Consultant’s obligation to notify under sub-clause 11.5 shall include the provision of further information to the Controller in phases, as details become available.
   3. Taking into account the nature of the processing, the Consultant shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under sub-clause 11.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:

the Controller with full details and copies of the complaint, communication or request;

such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;

assistance as requested by the Controller following any Data Loss Event;

assistance as requested by the Controller with respect to any request from the Information Commissioner’s Office, or any consultation by the Controller with the Information Commissioner's Office.

* 1. The Consultant shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:
  2. the Controller determines that the processing is not occasional;
  3. the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
  4. the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
  5. The Consultant shall allow for audits of its Data Processing activity by the Controller or the Controller’s designated auditor.
  6. The Consultant shall designate a Data Protection Officer if required by the Data Protection Legislation.
  7. Before allowing any Sub-Processor to process any Personal Data related to this Agreement, the Consultant must:

1. notify the Controller in writing of the intended Sub-Processor and processing;
2. obtain the written consent of the Controller;
3. enter into a written agreement with the Sub-Processor which give effect to the terms set out in this clause 11.11 such that they apply to the Sub-Processor; and
4. provide the Controller with such information regarding the Sub-Processor as the Controller may reasonably require.
   1. The Consultant shall remain fully liable for all acts or omissions of any Sub-Processor.
   2. The Consultant may, at any time on not less than 30 Working Days’ notice, request that this clause be revised or replaced with any applicable controller to processor standard clause or similar terms forming part of an applicable certification scheme which subject to the written agreement of the Controller shall apply when incorporated by attachment to this Agreement).
   3. The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Controller may on not less than 30 Working Days’ notice to the Consultant amend this Agreement to ensure that it complies with any guidance issued by the Information Commissioner’s Office.
   4. Notwithstanding any other provision herein contained, the Consultant shall indemnify the Controller in respect of any, fine, loss, claim, action damages or demand imposed on or suffered by the Controller as a result of any breach by the Consultant of this clause.

# FREEDOM OF INFORMATION

* 1. London Councils is subject to the provisions of the Freedom of Information Act 2000 (FOIA) and the Environmental Information Regulations 2004 (EIR). As such the Consultant acknowledges that London Councils may be obliged to disclose information relating to this Agreement.
  2. The Consultant shall have completed a Freedom of Information Questionnaire as set out in Appendix B to this Agreement stating which part or parts of his he considers to be Exempt Information and wish to be considered confidential or commercially sensitive stating under which section of the FOIA or EIR they believe applies.
  3. London Councils does not guarantee to comply with such request for exemption under the FOIA or EIR which will only be considered at the time of any Freedom of Information Request. London Councils will where ever possible revert to the Consultant to discuss any FOIA request for Information but does not guarantee to do so and the Consultant acknowledges and accepts that the final decision as to whether to release Information in response to an FOIA request will be for London Councils alone. Any failure to indicate in Appendix B that the Consultant considers particular Information as exempt will be seen as automatic consent for release of the Information.
  4. To the extent that the FOIA or EIR applies to this Agreement the Consultant shall provide such information as requested, provided always that the same does not fall within the Exempt information categories thereof, in accordance with the specified timescale, and in the form or format as shall have been agreed with London Councils. Upon receipt of a request for Information London Councils shall, wherever possible, consult with the Consultant and take into account its views on disclosure and the applicability of any exemptions.
  5. The Consultant shall after discussion with London Councils respond directly to a request for information under the FOIA or EIR and shall pass any details of this to London Councils.
  6. The Consultant shall and shall procure that its sub-contractors shall:
     1. provide either the Consultant or London Councils as appropriate with a copy of all information in its possession or power in a form that is required within five working days of receipt at no cost to London Councils; and
     2. provide all necessary assistance as reasonably requested by London Councils to respond to a request for information within the time for compliance set out in FOIA or EIR.
  7. All information provided or assistance rendered by virtue of the Consultant’s obligations under this clause 12 shall be part of the Consultant’s general obligations to London Councils and shall be at no cost to London Councils.

# NOTICES

Any demand, notice, or other communication, required to be given hereunder will be sufficiently served if served personally on the addressee, or, if sent by pre-paid first class special delivery post, or by facsimile transmission to the registered office, or last known address of the party to be served will, subject to proof to the contrary, be deemed to have been received by the addressee on the second Working Day day after the date of posting, or on successful transmission as the case may be.

# WAIVER AND SEVERANCE

* 1. Failure by London Councils at any time to enforce the provisions of the Agreement, or to require performance by the Consultant of any of the provisions of the Agreement, will not be construed as a waiver of any such provision and will not affect the validity of the Agreement, or any part of the Agreement, or the right of London Councils to enforce any provision in accordance with its terms, at any time.
  2. If any provision in the Agreement will become void, voidable or unenforceable by virtue of the coming into force of any statute or other mandatory legislation, or in the event of any provision being declared by any court of competent jurisdiction to be such, then and in such event the balance of the Agreement will remain in full force and effect.

# TERMINATION

* 1. Termination at Will
     1. In the event that:-
        1. the Review referred to in sub-clause 4.2 of this Agreement is undertaken during the Review and following the Review London Councils deems
        2. the performance of the Consultant does not meet London Councils expectations
        3. there are insufficient resources/ Funding to continue with the Programme has generated the level of interest by London Boroughs and/ or the private sector
        4. organisational changes come into force during the Term of this Agreement which result in the Services and or the London Ventures Programme having to be abandoned

then upon such event, London Councils reserves the right to terminate this Agreement upon giving to the Consultant not less than 2 months written notice.

* + 1. Either of the Parties may terminate the Agreement or any part thereof upon giving to each other not less than 2 months’ written notice to be given at any time at the address set out in the Agreement or to any other address that shall be formally notified by the Parties to the other.
    2. In the event that the Consultant terminates this Agreement in accordance with the provisions of sub-clauses 15.2 or 15.3 London Councils shall be entitled to recover its reasonable costs including but not limited to retender costs arising from the premature termination. London Councils shall take all reasonable steps to mitigate such costs.
    3. The Parties agree that London Councils may in its absolute discretion terminate any one part of the Services, by giving reasonable notice not exceeding [2] months to the Consultant and that the Consultant agrees that redeployment of its employees and other resources required to effect the partial termination will be at the Consultant’s cost and not claimable from London Councils.
  1. Termination for Other Reasons
     1. London Councils may by written notice also terminate the engagement of the Consultant under this Agreement on the occurrence of any of the following:

1. in the event of any substantial change in legal status, or circumstances, occurring which will materially affect the contractual relationship between the parties, or the rights of either party to use, or otherwise recover monies due or enforce any other rights arising under the Agreement which will not be mutually agreed between the parties
2. if the Consultant becomes bankrupt or makes a composition or arrangement with its creditors or has a proposal in respect of its company for a voluntary arrangement for a composition of debts or scheme of arrangements approved in accordance with the Insolvency Act 1986 as amended by the Enterprise Act 2002 or has an application made under the Insolvency Act 1986 as amended by the Enterprise Act 2002 in respect of its company to the Court for the appointment of an administrator or having a winding up order made or a resolution passed (except for the purposes of amalgamation or reconstruction on terms acceptable to London Councils) a resolution for voluntary winding up passed or has a provisional liquidator receiver or manager of its business or undertaking duly appointed or has an administrative receiver as defined in the Insolvency Act 1986 as amended by the Enterprise Act 2002 duly appointed or has possession taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in , or subject to, the floating charge., or
3. the Consultant commits a Default and the Consultant has not remedied the Default to the satisfaction of London Councils, or

* the Default is not, in the opinion of London Councils, capable of remedy; or
* the Default is a material breach of the Agreement.

1. the provisions of clause 5.11.1 of this Agreement are invoked by London Councils;
2. In the circumstances specified in sub-clause 9.3 of this Agreement.
3. In the circumstances specified in Regulation 73 (1) of the Public Contracts Regulations 2015.
   * 1. In the event that through any Default of the Consultant, data transmitted or processed in connection with the Agreement is either lost or sufficiently degraded as to be unusable, the Consultant shall be liable for the costs of reconstitution of that data and shall provide a full credit in respect of any charge levied for its transmission and shall reimburse London Councils all costs charged in connection with such Default of the Consultant.
   1. Consequences of Termination
      1. Termination of this Agreement by any Party shall not affect the accrued rights of any Party to the date of termination. Except as otherwise expressly provided by the Agreement, all remedies available to any Party for breach of this Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
   2. Recovery upon Termination
      1. Where London Councils terminates the Agreement for cause or any part of the Agreement and then makes alternative arrangements for the provision of the Services, London Councils shall be entitled to recover from the Consultant the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by London Councils throughout the remainder of the Term. London Councils shall take all reasonable steps to mitigate such additional expenditure. No further payments shall be payable by London Councils until London Councils has established the final cost of making those final arrangements.
      2. Save as otherwise expressly provided in this Agreement, termination of this Agreement shall be without prejudice to any rights, remedies or obligations accrued under this Agreement prior to termination or expiration and nothing in the Agreement shall prejudice the right of either Party to recover any amount outstanding at such termination or expiry.
      3. At the end of the Term (and howsoever arising) the Consultant shall forthwith transfer absolute ownership of and deliver all Documents created or amended in connection with the Services in its possession to the newly appointed consultant or in the event that no such appointment has been made to London Councils.
      4. At the end of the Term (howsoever arising) and or after the Term, and in the event that a replacement provider, different organisation or third party is required to take on the Services, the Consultant shall fully co-operate in all arrangements for the transfer of the Services to reduce to a minimum any interruption in the Programme.
         1. At the time of any handover of the Services:-
4. the Consultant shall provide the termination and transfer assistance to London Councils as set out in Appendix E and the replacement provider (or different organisation or third party referred to in clause 15.4.4 of the Agreement in order to achieve an effective transfer of the Services without disruption to the Programme.
5. the Consultant shall provide to London Councils and/or the replacement provider (or different organisation or third party referred to in clause 15.4.4 of the Agreement (as directed by London Councils ) such documents and other information as may be necessary to ensure an effective handover of the provision of the Services.
   * 1. In the event of termination (when and howsoever occurring) the Parties shall enter into an exit agreement which shall implement the Exit Plan.
   1. Notwithstanding any other term or provision, all Data shall be returned to London Councils within one month of the termination or expiry of this Agreement or such other period as shall be agreed between the Parties.

# EXIT MANAGEMENT

* 1. London Councils and the Consultant shall comply with the exit management requirements set out in Appendix E (Exit and Service Transfer Arrangements) of this Agreement and any current Exit Plan. Notwithstanding any other provision of this Agreement London Councils shall have the rights set out in clause 15;
     1. if an insolvency event occurs, sub-clause 15.2 shall be exercisable by London Councils at any time before the winding up of the Consultant or any other consequence of the occurrence of those events, including the appointment of a liquidator, receiver, manager or administrator;
     2. in the event of termination of this Agreement for any reason; and/or
     3. upon the expiry of this Agreement.

## Unless London Councils otherwise requires, during the time between service of a notice of termination of this Agreement, or for partial termination in accordance with sub-clause 15.1.2, and such termination or exercise taking effect, the Consultant shall take all steps, which are necessary and consistent with its continuing obligations, to mitigate any losses, costs, liabilities and expenses which the Consultant may incur as a result of the termination, including to:

### reduce labour costs by the redeployment or release of personnel other than Key Personnel to the extent possible in the circumstances; and

### apply any insurance monies available to the reduction of any unavoidable costs remaining in respect of the required actions in respect of any business continuity arrangements.

# DISPUTE RESOLUTION

* 1. The Parties shall each be under a general obligation to use all reasonable endeavours to negotiate in good faith and to settle amicably any dispute of whatever nature arising in connection with this Agreement.
  2. Except where the Agreement provides to the contrary, all disputes between the Parties arising out of or relating to the Agreement shall be referred in the first instance by the Parties to their respective representatives for resolution within 30 calendar days of a Party notifying another Party or Parties of the dispute. The Parties shall ensure that the respective representatives meet as soon as possible and in any event within five working days of referral of the dispute to them.
  3. If any dispute cannot be resolved by the respective representatives within 10 working days after the date of referral under Clause 17, that dispute shall be referred for resolution by any Party to the dispute to:

(a) In the case of the Consultant to; and

(b) In the case of London Councils to the Director of Policy & Public Affairs , or equivalent.

* 1. If the dispute still remains unresolved within a further 14 days following the referral in sub-clause 17.3, then the Parties agree to enter into mediation to settle such a dispute and will do so in accordance with the CEDR Model Mediation Procedure, Unless otherwise agreed between the Parties within 14 days from the date of notice of the dispute, the mediator will be nominated by CEDR to initiate a mediation a Party must give notice in writing (ADR Notice) to the other party to the dispute referring the dispute to mediation. A copy of the referral should be sent to CEDR. Unless otherwise agreed, the mediation will start not later than 14 days after the date of the ADR notice, No party may commence any Court proceedings in relation to any dispute arising out of this Agreement until it has attempted to settle the dispute by mediation and either the mediation has terminated or the other Party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay.
  2. The Consultant will continue to perform its obligations (including any Additional Services) even if any dispute resolution procedure has been invoked under clause 17 by either Party.

# TRANSFER OF EMPLOYMENT

* 1. If London Councils seeks or proposes to seek further tenders for the execution of the Services (whether upon expiry of the Term of this Agreement or earlier termination of the Consultant’s engagement under clause 15) the Consultant will within no later than 28 working days of a written request from London Councils, provide to London Councils (and to such other parties as London Councils may require) such information as London Councils may require concerning any Consultant employees who the Consultant reasonably considers may transfer by operation of TUPE on the termination of the Services in whole or in part:

1. current salary;
2. length of service;
3. hours of work;
4. arrangements for overtime;
5. factors that may affect redundancy entitlement;
6. outstanding industrial injury or other claims;
7. probationary periods;
8. periods of notice for termination of employment;
9. current pay agreement and any agreed settlement yet to come into effect;
10. age;
11. gender;
12. annual leave entitlement;
13. sick leave entitlement;
14. maternity/paternity leave arrangements;
15. special leave entitlement;
16. season ticket loans, provision of cars and other contractual or customary benefits, if applicable;
17. pension arrangements;
18. location and any contractual provisions relating to location;
19. nature of job;
20. percentage of time spent in providing the Services;
21. any disciplinary action taken by the Consultant against an employee within the previous two (2) years;
22. any grievance procedure taken by an employee against the Consultant within the previous two (2) years
23. any court or tribunal case, claim or action:
24. brought by an employee against the Consultant within the previous two (2) years;
25. that the Consultant has reasonable grounds to believe an employee may bring against a new Consultant arising out of the employee’s employment with the Consultant; and
26. any collective agreement which will have effect after a transfer of employment in relation to the employees, pursuant to the Transfer of Undertakings (Protection of Employment) Regulations 2006.

## The Consultant will warrant that the information provided pursuant to sub-clause 18.1 is accurate and complete.

## The Consultant will advise London Councils immediately of any changes to the information provided pursuant to sub-clause 18.1 between the date on which it is provided and the expiry of the term of the Agreement and will ensure that the information disclosed is accurate and up to date as at the expiry date and that salaries and wages relating to such key personnel have been discharged.

## If the Consultant fails to provide the information listed in sub-clause 18.1 the Consultant may not be permitted to tender for any subsequent replacement services.

## London Councils will keep any information disclosed pursuant to sub-clause 18.1 confidential and will ensure that it complies with the relevant data protection legislation in respect of such information. London Councils will only disclose such information to persons who have indicated a firm intention to submit a tender to London Councils to carry out the provision of the Services in the period after determination of the Consultant’s engagement under the Agreement.

## The Consultant will indemnify London Councils against all claims, costs, damages, compensation and other liabilities (but not for loss of profit or goodwill or any loss or damage which is indirect or consequential) resulting from any failure on the part of the Consultant to fulfil its obligations relating to:

1. the provision of full up-to-date and accurate information to the Consultant’s employees or their representatives; and
2. the consultation with such employees or their representatives or the lack of it.

## The Consultant will not, without the prior written consent of London Councils (not to be unreasonably withheld), during the final six (6) months of the Term of the Agreement assign or redeploy any employees to other duties unconnected with the Services.

## The Consultant will not, without the prior written consent of London Councils (not to be unreasonably withheld), during the final six (6) months of the Term of the Agreement increase the number of its employees such that the total number of employees or the total cost per annum of employing all such employees is increased by more than one per cent (1%) during such period.

## The Consultant shall not agree with or otherwise promise any employees or trade unions any terms of conditions of employment which are outside the ordinary and normal custom and practice for their industry or relevant trade or which are conditioned upon or triggered by a relevant transfer or are intended to frustrate a re-tendering exercise or deter potential tenderers from tendering.

# GOVERNING LAW

The Agreement will be governed by and construed in accordance with the Laws of England and the parties submit to the exclusive jurisdiction of the English Courts. .

# VARIATIONS AND CHANGE CONTROL PROCEDURE

* 1. Changes to the Services required following a change in, or from the application of a Statute, Statutory Instrument, Byelaw, relevant British standard or European standard or other mandatory requirement of Code of Practice shall be implemented in accordance with the procedures described in this clause 20, provided that the Contract Price shall not be amended unless :-
     1. the change arises because the change to a Statute, Statutory Instrument, Byelaw, relevant British standard or European standard or other mandatory requirement or Code of Practice is applicable to the scope of the Services; and
     2. the change arises because the change to a Statute, Statutory Instrument, Byelaw, relevant British standard or European standard or other mandatory requirement or Code of Practice is applicable to the delivery of the Services to London Councils or the receipt of the same by London Councils.
  2. If the change does not impact on the Consultant’s cost of delivering the Services, then it shall be implemented by the Consultant free of charge.
  3. London Councils reserves the right on giving reasonable written notice from time to time to require changes to the provision of the Services whether by removal of part of the Services, decreasing or increasing the provision of the Services or specifying the requirements in which the Service is to be provided for any reason whatsoever provided that such omission decrease or increase does not amount to a substantial modification of the Services for the purposes of Regulation 72 of the Public Contracts Regulations 2015. Such a change is hereinafter called a “Change Request”.
  4. The Change Request shall be communicated in writing by London Councils to the Consultant in accordance with the notice provisions set out in this Agreement.
  5. In the event of a Change Request the Contract Price may also be varied. Such Change Request in the Contract Price shall be calculated by London Councils and agreed in writing with the Consultant and shall be such amount as properly and fairly reflects the nature and extent of the Change Request in all the circumstances. Failing agreement, the matter shall be determined in accordance with the dispute resolution process set out in clause 17 of this Agreement.
  6. The Consultant shall provide such information as may be reasonably required to enable the Contract Price to be calculated in accordance with the provisions of this clause.

# ENTIRE AGREEMENT

This Agreement sets out the entire agreement between the Parties as to its subject matter and supersedes all prior agreements and representations not incorporated in the Agreement. This clause shall not apply to fraudulent misrepresentations.

# SURVIVAL

* 1. Notwithstanding the termination or expiry of this Agreement in whole the provisions of Clauses (7 Insurance & Indemnity), (10 Confidentiality), (11 Data Protection) and (12 Freedom of Information), (13 Notices), (15 Consequences of Termination), (17 Dispute Resolution), (19 Governing Law), shall expressly survive such termination or expiry and continue in full force and effect along with any other Clauses or Schedules of this Agreement necessary to give full and proper effect to the clauses listed above.
  2. Any other provision contained in this Agreement which by its nature or by implication (including in respect of any accrued rights and liabilities) is required to survive termination or expiry of this Agreement so as to give effect to that provision, shall survive such termination or expiry.

**IN WITNESS** of which this Agreement has been prepared in duplicate and executed by or on behalf of each party hereto and exchanged the day and year first above written

**EXECUTED** and **DELIVERED** as a **DEED )**

by the **Consultant** acting by **)**

the signature of: **)**

…………………………………………………………

Director

…………………………………………………………

Partner/Director

**EXECUTED** and **DELIVERED** as a **DEED )**

**by LONDON COUNCILS )**

by means of this signature: **)**

…………………………………………………………

John O’ Brien

Chief Executive

# SCHEDULE ONE CONTRACT PARTICULARS

**NOTE TO TENDERERS THIS SCHEDULE WILL BE POPULATED WITH THE REQUIRED INFORMAITON FOLLOWING CONTRACT AWARD TO THE SUCCESSFUL TENDERER**

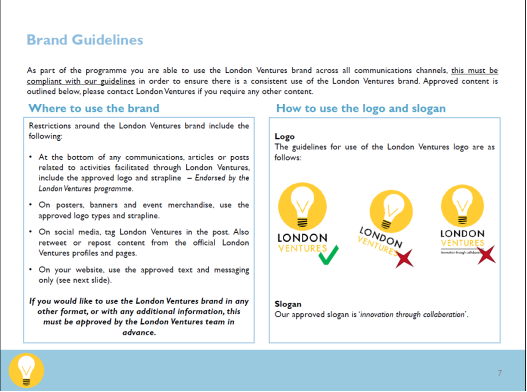
| **Clause** | **Subject** |  | |
| --- | --- | --- | --- |
| 1.1 | **List of Contract Documents**: |  | |
| 1.1 | **Description of the Services**: | Provision of Consultancy Services For Programme Management and Delivery Support for London Ventures 2019 - 2020 | |
| 1.1 | **The Supervising Officer is:** |  | |
| 2.9 | **Daily Rates**: | **Role:** | **Rate:** |
| Partner/Director |  |
| Managing Consultant |  |
| Principal Consultant |  |
| Senior Consultant |  |
|  | **Contract Price**: | £ | |
| 6.2 | **Stage payments**: | To be agreed on a quarterly basis through agreed Statements of Work (SOW) in line with figures presented in the Consultant’s Tender as clarified by correspondence namely Contract Document [ ] referred to in this Schedule One. | |
| 7.2 | **Sums insured:**  **Professional Indemnity:**  **Public Liability:**  **Products Liability:**  **Employer’s Liability**: | £5,000,000 for each and every claim  £5,000,000 for each and every claim  £5,000,000 for each and every claim  As required by law for each and every claim | |

# APPENDIX A LOGOS AND BRAND GUIDELINES

**LONDON COUNCILS DESIGN GUIDE**



**LVBG**



# APPENDIX B FOIA EXEMPT INFORMATION

|  |  |  |  |
| --- | --- | --- | --- |
| **Information Class** | **Exemption (section of the Act)** | **Detailed Reasons for Application of Exemption** | **No. of years Exemption to Last** |
|  |  |  |  |

# APPENDIX C LONDON COUNCILS EQUAL OPPORTUNTIES POLICY

April 2010

|  |  |
| --- | --- |
| Policy Agreed |  |
| Joint Consultative Committee | 19 April 2010 |
| Corporate Management Board | 22 April 2010 |

**Purpose of policy**

To ensure that equality and diversity issues are positively and fully incorporated in all aspects of London Councils work. To ensure that all employees demonstrate respect and fairness to their colleagues, the public with whom they come into contact, and the people of London for whose benefit they work. To ensure that the organisation is able to recruit and retain the best staff and celebrate the benefits of diversity on an individual and group level.

## Guiding Principles

London Councils expects all employees to positively promote the letter and spirit of this policy in all aspects of their work and their dealings with people, both internally and externally. It is expected that these principles will be integral to all London Councils work from inception to implementation.

## Content of policy/procedure

London Councils has made the following statement about its vision for the future:

London Councils is committed to fighting for more resources for London and getting the best possible deal for London's 33 councils. We develop policy, lobby government and others, and run a range of services designed to make life better for Londoners.

In order to translate this vision into reality, London Councils equal opportunities policy ensures that equality and diversity issues are positively and fully incorporated in all aspects of its work. One of its key objectives is to be open and accountable, with a commitment to equality of opportunity in all that it does, and to reflect the cultural and ethnic diversity of London.

**Policy Statement**

London Councils will continually strive to challenge direct and indirect discrimination in its organisation, personnel practices and provision of services.

This equal opportunities policy recognises that London is a diverse community, and values each person regardless of race, gender, disability, sexuality, religion and belief, marital status, social background or age.

London Councils aims to:

* ensure fair and equal recruitment to its jobs
* ensure fair and equal treatment of its employees and customers
* develop a culture and working environment free from discrimination and harassment
* act promptly on any complaints of discrimination and harassment
* provide a safe, secure and accessible working environment which values and respects individual's identities and cultures
* have a workforce that reflects the diversity of London’s population
* encourage and help all staff to reach their full potential
* monitor and review all policies and procedures from an equalities perspective.

These principles will guide and inform the development of all other employment policies, and the provision of London Councils services and work programmes.

## Implementation

A commitment to Equal Opportunities underlies the structure of London Councils and the provision of its services. Corporate Management Board will play a key role in ensuring that the policy is complied with within the organisation and in its links with outside agencies and constituent authorities.

Corporate Management Board will review and monitor practices within their spheres of responsibility. It is however the responsibility of all staff to carry out their duties in accordance with the Equal Opportunities Policy at all times.

Human Resources will specifically ensure that the operation of policies and procedures in practice are monitored and reviewed in the light of any concerns about potential discriminatory impact.

**NOTE TO TENDERERS – LONDON COUNCILS RESERVES THE RIGHT TO CALL FOR A PARENT COMPANY GUARANTEE IN ACCORDANCE WITH LONDON COUNCILS FINANCIAL REGULATIONS IF IT IS DETERMINED BY LONDON COUNCILS THAT A PARENT COMPANY GUARANTEE IS NECESSARY**

# APPENDIX D PARENT COMPANY GUARANTEE

DATED 20

**LONDON COUNCILS**

-and-

**[ ]**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PARENT COMPANY GUARANTEE**

in connection with

**CONSULTANT’S APPOINTMENT for services in connection with the provision of Consultancy for Programme Management and Delivery Support for London Ventures 2019 -2020 ]**

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**THIS DEED** is made the day of 20

PARTIES

1. [ ] (incorporated and registered in [ ] with company number [ ]) whose registered office is at [ ] (“Guarantor”); and
2. LONDON COUNCILS of 59 ½ Southwark Street London SE1 0AL ( London Councils)

RECITALS

1. By an agreement in writing dated [ ] (“Contract”) and made between London Councils as therein defined and [ ] (incorporated and registered in [ ] with company number [ ]) whose registered office is at [ ] (“Consultant “), the Consultant agreed to [].
2. The Guarantor is a parent company of the Consultant and has agreed to guarantee the Consultant’s due performance of its duties or obligations under the Contract.

OPERATIVE PROVISIONS

Guarantee and indemnity

## 1.1 The Guarantor guarantees the due and punctual performance by the Consultant of the Consultant’s duties and obligations to London Councils under the Contract.

## 1.2 If the Consultant fails to observe or perform any of its duties or obligations to London Councils under the Contract, or if the Consultant fails to pay any sum, loss, debt, damage, interest, cost or expense due from the Consultant to London Councils under or in connection with the Contract, the Guarantor (as a separate and independent obligation and liability from its obligations and liabilities under clause 1.1) will indemnify London Councils against all loss, debt, damage, interest, cost and expense (including legal fees and expenses of litigation on a full indemnity basis) incurred by London Councils by reason of such failure or non-payment and will on first written demand pay to London Councils (without any deduction or set-off) the amount of that loss, debt, damage, interest, cost and expense.

## 1.3 The Guarantor will indemnify London Councils against all loss, debt, damage, interest, cost and expense (including legal fees and expenses of litigation on a full indemnity basis) incurred by London Councils by reason of the Consultant :

### stopping or suspending payment of any of its debts, or being unable to (or admitting an inability to) pay its debts as they fall due;

### entering into any composition or arrangement with one or more of its creditors with a view to rescheduling any of its indebtedness; or

### suffering any of the following events:

#### a moratorium of any indebtedness, winding-up, dissolution, suspension of payments, administration, reorganisation (as a voluntary arrangement, scheme of arrangement or otherwise), petition for bankruptcy, composition, compromise, assignment or arrangement with any creditor,

#### any liquidator, receiver, administrative receiver, administrator, compulsory manager or other similar officer is appointed in respect of the Consultant or any of its assets, or

#### any event occurs in relation to the Consultant that is analogous to the events listed in this definition

## and will on first written demand pay to London Councils (without any deduction or set-off) the amount of that loss, debt, damage, interest, cost and expense.

Changes

## 2.1 The Contract may be modified, amended or supplemented in any way without the Guarantor's consent. The Guarantor's liability under this deed, which includes (without limitation) the Consultant’s duties, obligations and liabilities under the Contract as modified, amended or supplemented, will not be reduced, discharged, released or otherwise adversely affected by:

### any such modification, amendment or supplement;

### any invalidity, avoidance or termination of the Contract;

### the occurrence of any of the events described in clause 1.3;

### any amalgamation, reconstruction, change of name, change of directorship, status or ownership of the Consultant ;

### any act, omission, matter or thing which would not have discharged or affected the liability of the Guarantor had it been a principal debtor instead of guarantor or indemnifier or by anything done or omitted by any person which but for this provision might operate to exonerate or discharge the Guarantor or otherwise reduce, release, prejudice or extinguish its liability under this deed; or

### any waiver, concession, allowance of time, variation, novation, restatement, extension, discharge, compromise or forbearance, dealing with, exchange or renewal of any right or remedy which London Councils may now or in future have from or against, given to, or made with, the Consultant and any other person in respect of any of the Consultant’s obligations under the Contract. The terms of this deed will apply to the terms of any such arrangements as they apply to the Contract.

Priority

## 3.1 London Councils does not have to pursue any remedy against the Consultant before proceeding against the Guarantor under this deed.

## 3.2 As long as any liability incurred by the Consultant to London Councils guaranteed under this deed remains unsatisfied, the Guarantor will not, in respect of any payment made or liability arising under this deed, effect (or try to effect) any recovery from the Consultant, whether by receipt of money, set-off, proof of debt, enforcement of security or otherwise.

Assignment and third party rights

## 4.1 London Councils may assign the benefit of this deed to any person to whom London Councils lawfully assigns or charges the benefit of the Contract and the Guarantor will not contend that any person to whom the benefit of this deed is assigned may not recover any sum under this deed because that person is an assignee and not a named party to this deed.

## 4.2 Except as provided under clause 4.1, only a person who is named as a party to this deed will have any rights under or in connection with it.

Notices

## Any demand, notice, or other communication, required to be given under this deed will be sufficiently served if served personally on the addressee, or, if sent by pre-paid first class ‘Recorded Signed For’ or ‘Special Delivery’ post to the registered office, or last known address of the person to be served.

Governing law and jurisdiction

## 6.1 This deed and any dispute or claim arising out of or in connection with it, or its subject matter or formation, are to be governed by and construed in accordance with the law of England.

## 6.2 The courts of England have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this deed, its subject matter or its formation.

**IN WITNESS** whereof the Guarantor has executed and delivered this document as a Deed on the date stated at the beginning of it.

|  |  |  |
| --- | --- | --- |
| **Executed** as a **Deed** and **Delivered** by [ ] acting by the signature of two of its duly authorised officers: | **) ) ) ) )** | ................................................  Director  ................................................  Director/Secretary |

# APPENDIX E THE EXIT AND SERVICE TRANSFER ARRANGEMENTS

1. Three months following the commencement of this Agreement the Consultant shall prepare a Service Transfer Plan (“STP”) for review by London Councils. London Councils shall review the STP within thirty (30) working days of receipt from the Consultant and shall notify the Consultant of any suggested revisions to the STP which shall be incorporated or discussed at the Service Review Meeting. The agreed STP will be signed as approved by each party.

2. The STP shall provide comprehensive plans for the activities and the associated liaison and assistance which will be required for the successful transfer of the Services and expiry of the Agreement. The plans will include but not be limited to:

* + - 1. The Consultant shall upon request by London Councils provide reasonable assistance without additional charge to a replacement Consultant undertaking due diligence activity.
      2. The Consultant shall upon request by London Councils co-operate fully in the hand-over of the Services to a replacement Consultant in particular but not limited to the following:

1. Contact details of London Ventures Partners
2. Information setting out commercial relationships with London Venture Partners
3. Electronic messages relating to London Ventures which impact or are relevant to future activity
4. Documents relating to London Ventures which impact or are relevant to future activity or provide relevant background information to carrying out the programme such as marketing materials, financial projections, programme reporting.

# APPENDIX F TEMPLATE FOR CHANGE REQUEST NOTICE

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| CHANGE REQUEST NOTICE (“CRN”) | | | | |
| Between LONDON COUNCILS | | | | |
| and the CONSULTANT | | | | |
| CHANGE REQUEST NOTICE DETAILS | | |  | |
| CCN Reference No: | | | KPI reference:  Specification for: | |
| Raised by: | | | Received by: | |
| Date: | | | Date: | |
| Reason for the Change Request: | | | | |
| Description of the Change Request: | | | | |
| Benefits to London Councils and the Consultant: | | | | |
| Timetable for the change/Operational Date the Change Request is to take effect from: | | | | |
| Price: | | | | |
| Impact on other work within the Specification or KPI's (if any): | | | | |
| Impact on the timescale within the Specification or KPI's (if any): | | | | |
| New Wording of clause ……. of the Specification/KPI: | | | | |
| The parties hereby agree to vary the Agreement in the manner and in consideration of the terms set out above.  Save as expressly set out in this Change Request Notice the terms and conditions of the Agreement shall remain in full force and effect. | | | | |
| Agreed for and on behalf of London Councils | | Agreed for and on behalf of the Consultant: | | |
| Signed: |  | Signed: | |  |
| Title: |  | Title: | |  |
| Date: |  | Date: | |  |

# APPENDIX G DATA PROCESSING AUTHORISATION FORM

**NOTE TO TENDERERS – THIS DATA PROCESSING AUTHORISATION FORM HAS BEEN AGREED IN CONSULTAITON WITH LONDON COUNCILS DATA PROTECTION OFFICER**

|  |  |
| --- | --- |
| **Subject matter of the processing** | [ ] will process the following personal data of local government officers/councillors for use as part of the Programme Management and Delivery Support for London Venture 2019/2020 contract only:   * Work email addresses * Phone numbers |
| **Duration of the processing** | The processing will take place between the signing of this document to 22 August 2020, plus additional time for close down of the LV programme should the contract be terminated on 22 August 2020. |
| **Nature and purposes of the processing** | [ ] primary purpose of processing data will be to use to communicate with local government officers, councillors or organisations contacting London Councils in relation to London Ventures to either:   1. Promote opportunities offered by the London Ventures programme 2. Organise meetings and events   The information provided for the purpose of supporting London Ventures should not be used for any other purposes. |
| **Type of Personal Data** | The type of personal data includes:   1. Names 2. Work addresses 3. Work emails addresses 4. Work phone numbers |
| **Categories of Data Subject** | The categories of data subjects include:   1. Local government councillors 2. Local government officers 3. Businesses/organisations representatives |
| **Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data** | Data will be retained for as long as it is required to facilitate the delivery of the London Ventures programme and also in accordance with [ ] data retention policy and/or statutory requirements.  Whatever personal information/data London Councils has provided for [ ] in relation to the London Ventures contract should be deleted by EY in a compliant manner. |
| **Describe how the data will be stored and managed in a secure way** | As per [ ] policy |