



# **THE PROVISION OF AZURE BUILD AND CONNECTIVITY TECHNICAL SUPPORT**

**THIS CONTRACT** is dated 12 July 2018 and made between

- (1) **Police and Crime Commissioner for Avon and Somerset, Valley Rd, Portishead, Bristol, BS20 8JJ** (hereinafter referred to as the “Customer”)

and

- (2) **Vysiion Limited, Unit E4, Connect 17, Avon Way, Langley Park, Chippenham, SN15 1GG** (hereinafter referred to as the “Contractor”).

## **RECITALS:**

- 1.1 WHEREAS, the Customer circulated an Invitation to Tender to Potential Providers for The Provision of Azure Build and Connectivity Technical Support (the "Services")
- 1.2 WHEREAS, in response to the Invitation to Tender, the Contractor submitted a tender to the Customer dated 25 June 2018 (as set out in Section Five) (the "Tender")
- 1.3 WHEREAS, the Contractor represented in the Tender their competence, professionalism and ability to deliver the Services in accordance with the Customer's requirements, as set out in the Invitation to Tender.
- 1.4 NOW, THEREFORE, in consideration of the previous recitals, the Parties have agreed to contract with each other in accordance with the terms and conditions set out below (listed in order of precedence in the event of a conflict):
  - (a) Section One: Contract Acceptance and Signatures
  - (b) Section Two: Specification
  - (c) Section Three: Terms and Conditions
  - (d) Section Four: Price Schedule
  - (e) Section Five: Tender Response

## SECTION ONE: CONTRACT ACCEPTANCE AND SIGNATURES

The following information is to be completed by the Customer.

Signed:	.....
Name: (Block Capitals)	.....
In the capacity of: (e.g. Company Director)	.....
Duly Authorised to sign on behalf of: (Company Name)	Police and Crime Commissioner for Avon and Somerset
Address:	Police Headquarters, Valley Road, Portishead, Bristol, BS20 8JJ
Telephone:	.....
Dated:	.....

The following information is to be completed by the Contractor.

Signed:	.....
Name: (Block Capitals)	.....
In the capacity of: (e.g. Company Director)	.....
Duly Authorised to sign on behalf of: (Company Name)	Vysiion Limited
Address:	Unit E4, Connect 17, Avon Way, Langley Park, Chippenham, SN15 1GG
Telephone:	.....
Dated:	.....

**Signature of this Contract constitutes acceptance of the Contract and all Terms and Conditions.**

## **SECTION TWO: SPECIFICATION**

### **1. Introduction**

- 1.1 The Customer requires the Contractor to support the management and further development of the Analytics Platform. Support and development capability will include:
  - (a) Stakeholder Engagement
  - (b) Partner Links
  - (c) Value-Added Services
- 1.2 All licensing for the Analytics Platform, including but not limited to Azure and QlikSense will be provided by the Customer.
- 1.3 Work undertaken by the Contractor will be commissioned by the ODA Programme Manager as required against the Day Rates detailed in the Pricing Schedule. The Contractor will work closely with the ODA Programme Manager, providing access to an appointed account manager who will act upon escalating issues and change requests.
- 1.4 In agreed circumstances with the ODA Programme Manager, the Contractor may take direct instructions from Partner organisations. This is likely to be the case when setting up local VPN connections or undertaking activities to link to source data.

### **1. Azure ODA Platform Build Completion**

- 1.1 The Analytics Platform has recently undergone a penetration test. The results indicate that remediation activities need to be undertaken. The Contractor will undertake remediation activities.
- 1.2 The Analytics Platform currently includes a single instance of QlikSense. The Contractor shall (using existing terraform scripts developed by ODA) replicate the Analytics Platform to provide test environments.
- 1.3 The Contractor will support troubleshooting activities as the ODA Team (ODA Programme Manager, Enterprise Architect, BI Developers, InfoSec and Information Management) and Partners access the Analytics Platform. Where necessary, third party agreement will be put in place by the Customer for third line support. For example, QlikSense support agreements.

### **2. Partner Links**

- 2.1 The Contractor is expected to work with the core ODA Team with on boarding Partners with the Analytics Platform.
- 2.2 The Core Partners of the ODA include Bristol County Council, Devon Fire and Rescue, Somerset County Council and North Somerset County Council. These Core Partners will be provided with ODA connections in the initial instance.

This model will then be rolled out to a wider stakeholder group of up to 30 Partners (listed on the ODA website).

- 2.3 Partners will be provided with one of more of the following connections:
  - (a) Citrix Xen App Solution
  - (b) STFP Solution
  - (c) Site-to-Site VPN Solution
  
- 2.4 The Customer and Contractor will work together to determine the most appropriate approach for each Partner. The Contractor shall then
  - (a) design and implement the solution using the ODA Azure Infrastructure.
  - (b) provide local support to the Partner during implementation
  
- 2.5 In the initial instance, Partners will manually develop files to transfer to the ODA. The ODA has aspirations to automate the transfer of this data. Where possible, automated scripts will be developed to reduce the burden on Partner organisations. The Contractor may be required to develop scripts and work with Partners to ensure file transfer is (where possible) automated to ensure a seamless transfer of data.

### **3. Value-Added Services:**

- 3.1 The Supplier may provide other value-added services, such as analytics development, business analysis, information management, guidance and training, to support the ODA team.

### **4. Skills Requirements**

- 4.1 Given the requirement above, it is likely that the Contractor will provide a team comprising the following skills:
  - (a) Solution Architect to support design work
  - (b) Azure Engineer and or Network Engineer to support the deployment

## SECTION THREE: TERMS AND CONDITIONS OF CONTRACT

### GENERAL TERMS AND CONDITIONS OF CONTRACT

#### 1. Definitions

1.1 The following definitions shall apply within these conditions:

"Additional Conditions"	means any additional conditions of the Customer provided to the Contractor such as, without limitation, the Customer's terms and conditions for consultancy Contracts or the Customer's terms and conditions for computer systems;
"CEDR"	means the Centre for Effective Dispute Resolution;
"Conditions"	means these general terms and conditions of Contract;
"Contract"	means the agreement between the Customer and the Contractor consisting of the Contract Documents which shall be construed as one instrument;
"Contract Documents"	means the Additional Conditions, the Conditions, the Special Conditions, the Specification, the Invitation to Tender, the Contractor's Tender, an Order and any other documents (or parts thereof) referred to therein and/or specified by the Customer in writing;
"Contracting Authority"	means any UK Contracting authority as defined in Regulation 3(1) of the Public Services Contracts Regulations 1993 and Regulation 3(1) of the Public Supply Contracts Regulations 1995;
"Contractor"	means the person, firm or company with whom the Contract is made;
"Contractor's Tender"	means the Contractor's tender as accepted by the Customer in writing;
"Controller", "Processor", "Data Subject", "Personal Data", "Personal Data Breach", "Data Protection Officer"	means the same as given in the GDPR;

"Sub-Contract"	means a contract between two or more suppliers, at any stage of remoteness from the Customer in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Contract;
"Customer"	means the Police & Crime Commissioner for Avon and Somerset, its successors and assigns;
"Data Loss Event"	means any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, 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 (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
"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 of either Party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of either Party, its employees, agents or sub-Contractors in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other;
"Delivery"	means delivery of the Goods or Services at the place specified in the Contract or in any Order;
"DPA 2018"	means Data Protection Act 2018;
"Duly Authorised Officer"	means any person authorised by the Customer to act on its behalf for the purposes of the Contract, or, as the case may be, any person authorised by

	the Contractor to act on its behalf for the purposes of the Contract;
"Employees"	means all persons employed by the Contractor in connection with the Contract;
"GDPR"	means the General Data Protection Regulation(Regulation (EU) 2016/679);
"Goods"	means the articles or things or any of them or any components thereof described in the Contract or in any Order to be supplied by the Contractor to the Customer;
"Intellectual Property Rights"	means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;
"Invitation to Tender"	means an invitation for Contractors to bid for the Goods and/or Services required by the Customer;
"LED"	Law Enforcement Directive (Directive (EU) 2016/680);
"Order"	means a purchase order raised against the Contract by any Duly Authorised Officer of the Customer;
"Party"	means a party to the Contract and "Parties" shall be construed accordingly;
"Premises"	means the location where the Goods are to be delivered and/or the Services are to be performed as specified in the [Specification];
"Price"	means the price or prices for the Goods and/or Services set out in the Contract;
"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;
"Service/s"	means any action by the Contractor required by the Contract;
"Special Conditions"	means the Customer's special terms and conditions of Contract;
"Specification"	means the description and drawings of the Goods and/or Services contained or referred to in the Contract and/or provided by the Customer to the Contractor;
"Staff"	means all persons employed by the Contractor to perform the Contract together with the Contractor's servants, agents and sub-Contractors used in the performance of the Contract;
"Sub-processor"	means any third Party appointed to process Personal Data on behalf of the Contractor related to this Contract;
"Term"	means the term of the Contract as set out in the Special Conditions.

## **2. Standards and Compliance with Relevant Law**

- 2.1 The Services to be provided under the Contract (including the procurement and supply of any items or equipment for the provision of the Services) shall be provided by the Contractor in compliance with all relevant legislation, regulations, laws, codes of practice, guidance and other requirements of any relevant United Kingdom or European government or governmental agency (including, without limitation, any British Standard or British Standard Code of Practice issued by the British Standards Institution from time to time).
- 2.2 The Goods to be supplied to the Customer under the Contract shall comply in all material respects with all relevant legislation, regulations, laws, codes of practice, guidance and other requirements of any relevant United Kingdom or European government or governmental agency [(including, without limitation, any British Standard or British Standard Code of Practice issued by the British Standards Institution from time to time)].
- 2.3 The Contractor shall comply with all applicable legislation, regulations, laws, codes of practice, guidance and other requirements of any relevant United Kingdom or European government or governmental agency governing the performance of the Contractor's obligations under the Contract, including, but not limited to, obtaining all necessary licences and consents to supply the Goods and provide the Services and ensuring that its working practices comply with all applicable employment, health and safety, environmental and other

laws and regulations. The Contractor shall, at the request of the Customer, provide the Customer with evidence of its compliance with this Clause 2.

### **3. Price**

- 3.1 Subject to Clause 3.3, the Price shall be as set out in the Contractor's Tender.
- 3.2 No increase in Price shall be accepted by the Customer unless agreed (at its sole discretion) in writing by the Customer.
- 3.3 Throughout the Term, the Contractor shall pass onto the Customer in the form of reduced Price any reduction in direct or indirect costs experienced by the Contractor in respect of the provision of the Services and/or the supply of the Goods.
- 3.4 The Price shall be in pounds sterling (£). Should the Government adopt an alternative national currency during the Term (e.g. the Euro (€)) invoicing and payments shall be transferred to such currency in compliance with appropriate legislation at that time and at no additional cost to the Customer.
- 3.5 The Price shall include delivery of the Goods and/or Services to any location indicated by the Customer from time to time and shall include the cost of all necessary works and processes required to enable the Contractor to fully comply with its obligations under the Contract.
- 3.6 The Price shall be net of Value Added Tax.

### **4. Payment**

- 4.1 The Contractor shall submit monthly correctly costed invoices to the Customer in respect of any payments due to the Contractor under the Contract. All invoices shall comply with Customs and Excise regulations for VAT and shall clearly show any VAT payable by the Customer.
- 4.2 Unless otherwise agreed in writing or specified on an Order, and subject to Clause 4.3, on receipt of an invoice issued to the Customer in accordance with Clause 4.1, payment shall be made no later than 30 days from later of the follow two events:
  - (a) the date the Contractor's invoice is received at the Customer's invoice address
  - (b) the date the Customer accepts the Goods and/or Services to which the invoice relates
- 4.3 The Customer shall be entitled to withhold or delay payment of any invoice where it disputes the invoice, or the Services provided and/or the Goods supplied are not in accordance with the terms of the Contract.

- 4.4 Where the Contractor enters into a Sub-Contract, the Contractor shall include in that Sub-Contract:
- (a) Provisions having the same effect as clauses 4.1 to 4.3 of this Contract; and
  - (b) A provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses 4.1 to 4.4 of this Contract.

## **5. Delivery**

- 5.1 The Goods and/or Services shall be delivered by the Contractor at its own expense and risk to the place or places and in the manner specified in the Contract or any associated Order.
- 5.2 Where the Contract or associated Order provides for Delivery within a specified time that time shall run from the date of the Order.
- 5.3 If the Goods and/or Services or any portion thereof are not delivered within the times specified in the Contract or associated Order or any extension of such time or times as may be granted by the Customer in writing, the Customer shall be entitled:
- (a) to terminate the Contract in respect of the Goods and/or Services undelivered and of any other Goods and/or Services already delivered under the Contract which cannot be effectively or economically used by reason of the non-delivery of the undelivered Goods and/or Services. On such termination, the Customer shall be entitled to return to the Contractor at the Contractor's risk and expense any of the Goods and/or Services already delivered but which cannot be effectively or economically used and to recover from the Contractor any monies paid by the Customer in respect of such Goods and/or Services, and to recover from the Contractor any additional expenditure reasonably incurred by the Customer in obtaining other goods and/or services in replacement of those in respect of which the Contract has been terminated. The exercise of rights under this Clause shall not prejudice any right of the Customer to damages or other rights or remedies which the Customer may have under the Contract; or
  - (b) if the Customer is unable to obtain equivalent goods and/or services to the Goods and Services from another source to deduct from the Price one (1) per cent for each week between the required time of Delivery and the actual date of Delivery.
- 5.4 The Contractor shall if required by the Customer provide proof of Delivery in support of any claim for payment. No document purporting to prove Delivery of any Goods or Services will be accepted unless it includes the signature of a Duly Authorised Officer of the Customer.

5.5 The property in the Goods shall pass to the Customer on Delivery without prejudice to any right of rejection which may accrue to the Customer under the Contract.

## **6. Rejection of Goods and Services**

6.1 The Customer may by notice in writing to the Contractor given after Delivery reject any Goods which are found to be not in accordance with the Specification or any other term of the Contract. Goods so rejected shall be returned to the Contractor at the Contractor's risk and expense. In such case the Contractor shall within a reasonable time replace rejected Goods with Goods that are in all respects in accordance with the Specification and the terms of the Contract. Any money paid by the Customer in respect of rejected Goods not replaced by the Contractor together with any additional expenditure over and above the Price of the rejected Goods reasonably incurred by the Customer in obtaining other goods in replacement shall be paid by the Contractor to the Customer.

6.2 The Customer may reject any of the Services which are not in accordance with the Specification or any other term of the Contract. If any of the Services are rejected, any money paid by the Customer in respect of the rejected Services together with any additional expenditure over and above the Price of the rejected Services reasonably incurred by the Customer in obtaining other services in replacement shall be paid by the Contractor to the Customer.

6.3 The exercise of rights under this Clause 6 shall not prejudice any right of the Customer to damages or other rights or remedies which the Customer may have under the Contract.

## **7. Defective Goods**

7.1 Without prejudice to any other rights or remedies of the Customer under the Contract, if within 12 months of Delivery any defects of design, workmanship or materials develop in the Goods on the Customer's written request the Contractor shall at its own expense either replace the Goods in which such defects have developed with Goods that are free from defects or make good such defects as may be agreed between the parties in writing.

## **8. Damage or Loss in Transit**

8.1 The Contractor shall repair to the satisfaction of the Customer or replace free of charge Goods damaged or lost in transit and in the event of such damage or loss, Delivery shall not be deemed to have taken place until repaired or replacement Goods have been delivered.

## **9. Indemnity**

9.1 The Contractor shall indemnify and keep indemnified the Customer fully against all losses, claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with

the Contract in respect of any death or personal injury, or loss of or damage to property which is caused directly or indirectly by any act or omission of the Contractor.

- 9.2 The Contractor shall indemnify and keep indemnified the Customer fully against all losses, claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of the Contractor's Default.

## **10. Insurance**

- 10.1 The Contractor shall arrange and maintain adequate insurance with a reputable insurance company to cover all risks which may be incurred by the Contractor arising out of the Contractor's performance of the Contract, including, without limitation, death or personal injury, or loss of or damage to property. The Contractor shall on request by the Customer produce proof of the existence, adequacy and currency of such insurance policies.

## **11. Termination**

- 11.1 The Customer may terminate the Contract by notice in writing with immediate effect where:
- (a) the Contractor undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988; or
  - (b) the Contractor is an individual or a firm and petition is presented for the Contractor's bankruptcy, or a criminal bankruptcy order is made against the Contractor or any partners in the firm, or the Contractor or any partner in the firm makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage the Contractor's or firm's affairs; or
  - (c) the Contractor is a company, if the company passes a resolution for winding up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or an application is made for, or any meeting of its directors or members resolves to make an application for an administration order in relation to it or any party gives or files notice of intention to appoint an administrator of it or such an administrator is appointed, or the court makes a winding-up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver, manager or supervisor is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a fixed or floating charge; or
  - (d) the Contractor is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
  - (e) any similar event to those set out in Clauses 11.1(a), (b) and (c) occurs under the law of any other jurisdiction within the United Kingdom.

11.2 The Customer may terminate the Contract, or terminate the provision of any part of the Contract by written notice to the Contractor with immediate effect if the Contractor commits a Default and if:

- (a) the Contractor has not remedied the Default to the satisfaction of the Customer within thirty (30) days, or such other period as may be specified by the Customer, after issue of a written notice specifying the Default and requesting it to be remedied; or
- (b) the Default, in the sole opinion of the Customer, is not capable of remedy; or
- (c) the Default is a fundamental breach of the Contract.

11.3 The Customer shall have the right to terminate the Contract, or to terminate the provision of any part of the Contract at any time by giving three (3) months' written notice to the Contractor. The Customer may extend the period of notice at any time before it expires.

## **12. Consequences of Termination**

12.1 Other than for termination in accordance with Clause 11.3, where the Customer terminates the Contract in whole or in part in accordance with the provisions of the Contract and then makes other arrangements for the provision of Goods and/or Services, the Customer shall be entitled to:

- (a) recover from the Contractor the cost of making those arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Term;
- (b) make no further payments to the Contractor until the Customer has established the final cost of making those other arrangements.

## **13. Intellectual Property Rights**

13.1 The Goods and Services shall not infringe any Intellectual Property Rights of any third party and the Contractor shall fully indemnify and keep indemnified the Customer against all actions, suits, claims, demands, losses, charges, costs and expenses which the Customer may suffer or incur as a result of or in connection with any breach of this Clause and if an injunction is obtained against the use of any of the Goods and/or Services the Contractor shall forthwith provide goods and/or services approved by the Customer which do not infringe any Intellectual Property Rights of any third party.

## **14. Official Secrets Acts 1911 to 1989, Section 182 of the Finance Act 1989**

14.1 The Contactor undertakes to abide by and ensure that its Staff abide by the provisions of:

- (a) the Official Secrets Acts 1911 to 1989; and
- (b) Section 182 of the Finance Act 1989.

14.2 If the Contractor and its Staff fail to comply with this Clause 14, the Customer reserves the right to terminate the Contract by giving notice in writing to the Contractor.

14.3 The provisions of Clause 14 shall apply during the Term of the Contract and indefinitely after its expiry or termination.

## **15. Inducements**

15.1 If the Contractor or any person employed by or acting on behalf of the Contractor with or without its knowledge in relation to the Contract or any other Contract with the Customer:

- (a) offers or gives or agrees to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action or for showing or forbearing to show favour or disfavour to any person; or
- (b) commits any offence under the Prevention of Corruption Acts 1889 to 1916 or any enactment replacing or amending those acts; or
- (c) gives any fee or reward the receipt of which is an offence under the Local Government Act 1972 or any enactment replacing or amending that act;

then the Customer shall be entitled to terminate the Contract and the rights of the Contractor thereunder without compensation or liability of any description to the Contractor and to purchase elsewhere other goods and services in place of the Goods and/or Services outstanding under the Contract. Any cost incurred by the Customer in connection with a termination under this Clause together with all consequential loss or expense shall be repaid by the Contractor to the Customer on demand.

## **16. Data Protection**

16.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in Schedule 1 by the Customer and may not be determined by the Contractor.

16.2 The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.

16.3 The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, 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.

16.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

- (a) process that Personal Data only in accordance with Schedule 1, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;
- (b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Customer as appropriate to protect against a Data Loss Event having taken account of the:
  - (i) nature of the data to be protected;
  - (ii) harm that might result from a Data Loss Event;
  - (iii) state of technological development; and
  - (iv) cost of implementing any measures;
- (c) ensure that :
  - (i) the Employees do not process Personal Data except in accordance with this Contract (and in particular Schedule 1);
  - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:
    - (A) are aware of and comply with the Contractor's duties under this clause;

- (B) are subject to appropriate confidentiality undertakings with the Contractor or any Sub-processor;
  - (C) 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 Customer or as otherwise permitted by this Contract; and
  - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
- (d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;
  - (ii) the Data Subject has enforceable rights and effective legal remedies;
  - (iii) the Contractor 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 Customer in meeting its obligations); and
  - (iv) the Contractor complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- (e) at the written direction of the Customer, delete or return Personal Data (and any copies of it) to the Customer on termination of the Contract unless the Contractor is required by Law to retain the Personal Data.

16.5 Subject to clause 16.6, the Contractor shall notify the Customer immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives a request to rectify, block or erase any Personal Data;
- (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;

- (e) 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
  - (f) becomes aware of a Data Loss Event.
- 16.6 The Contractor's obligation to notify under clause 16.5 shall include the provision of further information to the Customer in phases, as details become available.
- 16.7 Taking into account the nature of the processing, the Contractor shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 16.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:
- (a) the Customer with full details and copies of the complaint, communication or request;
  - (b) such assistance as is reasonably requested by the Customer to enable the Customer to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - (c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;
  - (d) assistance as requested by the Customer following any Data Loss Event;
  - (e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.
- 16.8 The Contractor 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:
- (a) the Customer determines that the processing is not occasional;
  - (b) the Customer 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
  - (c) the Customer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 16.9 The Contractor shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.

16.10 The Contractor shall designate a data protection officer if required by the Data Protection Legislation.

16.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Contractor must:

- (a) notify the Customer in writing of the intended Sub-processor and processing;
- (b) obtain the written consent of the Customer;
- (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 16 such that they apply to the Sub-processor; and
- (d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.

16.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.

16.13 The Customer may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).

16.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **17. Discrimination**

17.1 The Contractor shall not unlawfully discriminate within the meaning and scope or any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.

17.2 The Contractor shall take all reasonable steps to secure the observance of Clause 17.1 by all servants, employees or agents of the Contractor and all suppliers and sub-Contractors employed in the execution of the Contract.

## **18. Environmental Requirements**

18.1 The Contractor shall, when working on the Customer's Premises, conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

## **19. Health and Safety**

- 19.1 The Contractor shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of the Contract.
- 19.2 The Customer shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Customer's Premises and which may affect the Contractor in the performance of the Contract.
- 19.3 While on the Customer's Premises, the Contractor shall comply with any health and safety measures implemented by the Customer in respect of Staff and other persons working on those Premises.
- 19.4 The Contractor shall notify the Customer immediately of an incident occurring in the performance of the Contract on the Customer's Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 19.5 The Contractor shall take all necessary measures to comply with the requirements of the Health and Safety at Work etc. Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of the Contract.
- 19.6 The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Customer on request.

## **20. Audit and the National Audit Office**

- 20.1 The Contractor shall keep and maintain until seven (7) years after the Contract has been completed, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Goods and/or Services provided under it, all expenditure reimbursed by the Customer and all payments made by the Customer. The Contractor shall on request afford the Customer or the Customer's representatives such access to those records as may be required by the Customer in connection with the Contract.

## **21. Confidentiality and Copyright in the Contract Documents**

- 21.1 Without prejudice to the provisions of Clause 14, the Contractor shall not without the prior written consent of the Customer during the Term or at any time thereafter make use of for its own purposes or disclose to any person (except as may be required by law), the Contract Documents or any information contained therein or in any material provided to the Contractor by the Customer pursuant to the Contract or prepared by the Contractor pursuant to the Contract, all of which information shall be deemed to be confidential.

- 21.2 The Contractor shall neither dispose of nor part with possession of any confidential material provided to the Contractor pursuant to the Contract, other than in accordance with the express prior written instructions of the Customer.
- 21.3 The Contractor shall not and shall ensure that its employees, agents, officers, representatives and sub-Contractors do not divulge to any third party any information which comes into their possession in the course of providing the Services or supplying the Goods.
- 21.4 The Contractor acknowledges that the copyright in the Contract Documents shall vest in the Customer and undertakes not to produce or permit reproduction of the Contract Documents or any part thereof save for the purpose of providing the Services and/or supplying the Goods without the prior written consent of the Customer.

## **22. Disputes**

- 22.1 Subject to Clause 22.6 below, if any dispute arises in connection with the Contract the Parties agree that such dispute shall be resolved in accordance with the provisions of this Clause 22.
- 22.2 If any dispute arises in connection with the Contract, the Duly Authorised Officers of the Parties shall, within (7) days of a written request from one Party to the other, meet in a good faith effort to resolve the dispute.
- 22.3 If the dispute is not resolved at that meeting, the Contractor's chief executive officer, or person of equivalent standing within the Contractor's organisation, and an appropriate individual within the Customer's "Chief Officer Group" shall, within seven (7) days of the meeting between the Duly Authorised Officers, meet in a good faith effort to resolve the dispute.
- 22.4 If the dispute is not resolved at that meeting, the Parties shall attempt to settle the dispute by mediation in accordance with the CEDR "Model Mediation Procedure". Unless otherwise agreed between the Parties, the mediator shall be nominated by the CEDR. To initiate the mediation a Party must give notice in writing to the other Party to the dispute requesting mediation. A copy of the notice shall be sent to the CEDR. The mediation shall start not later than seven (7) days after the date of such notice.
- 22.5 If the dispute has not been resolved within fourteen (14) days of the appointment of a mediator, or if either Party refuses to agree to mediation or withdraws from the mediation then the dispute may be referred to litigation and the Parties will be free to pursue their remedies without further reference to this Clause.
- 22.6 The commencement of any of the alternative dispute resolution procedures outlined above shall not prevent the Customer commencing or continuing Court proceedings at its sole discretion and shall be without prejudice to any rights or remedies that the Customer might have under this Contract.

## **23. Assignment and Subcontracting**

23.1 The Contractor shall not assign, sub-Contract or in any other way dispose of the Contract or any part of it without the prior written consent of the Customer. Sub-Contracting any part of the Contract shall not relieve the Contractor of any obligation or duty attributable to the Contractor under the Contract.

23.2 The Contractor shall be responsible for the acts and omissions of its sub-Contractors as though they are its own.

23.3 Where the Customer has consented to the placing of sub-Contracts, copies of each sub-Contract shall be sent by the Contractor to the Customer immediately it is issued.

## **24. Novation**

24.1 The Customer shall be entitled to:

- (a) assign, novate or otherwise dispose of its rights and obligations under the Contract or any part thereof to any Contracting Authority; or
- (b) novate the Contract to any other body established by the Crown or under statute in order substantially to perform any of the functions that previously had been performed by the Customer; or
- (c) novate the Contract to any private sector body which substantially performs the function of the Customer.

## **25. Entire Agreement and Precedence**

25.1 The Contract constitutes the entire agreement between the Parties relating to the subject matter of the Contract. The Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this Clause shall not exclude liability in respect of any fraudulent misrepresentation.

25.2 For the avoidance of doubt, the Contract Documents shall have precedence over any printed condition appearing on any acceptance form, delivery form or other documents or letters emanating from the Contractor and such conditions shall have no effect whatsoever except insofar as they confirm the terms in the Contract.

25.3 If there is any conflict between any of the terms of the Contract Documents, the Additional Conditions shall prevail followed by the Specification, Special Conditions, the Conditions, the Invitation to Tender, the Contractor's Tender and the Order.

## **26. Publicity, Media and Official Enquiries**

- 26.1 Except with the prior written consent of the other Party, neither Party shall make any press announcements or publicise the Contract or any part thereof in any way.
- 26.2 Both Parties shall take all reasonable steps to ensure the observance of the provisions of Clause 26.1 by all their servants, employees, agents, professional advisors and consultants. The Contractor shall take all reasonable steps to ensure the observance of the provisions of Clause 26.1 by its sub-Contractors.
- 26.3 The provisions of this Clause 26 shall apply during the Term and indefinitely after its expiry or termination.

## **27. The Contracts (Rights of Third Parties) Act 1999**

- 27.1 No person who is not a Party to the Contract (including without limitation any employee, officer, agent, representative, or sub-Contractor of either the Customer or the Contractor) shall have any right to enforce any term of the Contract, which expressly or by implication, confers a benefit on him without the prior agreement in writing of both Parties. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act and does not apply to the Crown.

## **28. The Freedom of Information Act 2000**

- 28.1 The Customer is a public authority to which the Freedom of Information Act 2000 ("the Act") applies. The Customer is obliged to consider written requests for information from members of the public and must disclose the requested information unless an exemption is available under the Act. In response to a request for information (including information provided by the Contractor in the course of this tendering exercise), the Customer may be required to confirm or deny it holds information and communicate the information to the Contractor.
- 28.2 The Customer must respond to requests for information by the 20th working day after the request is received and, whilst the Customer may consult with the Contractor (but will not necessarily do so) about specific requests, any such consultation will have to be completed within a very short timescale. Accordingly, the Contractor must consider whether any of the information supplied by it (or relating to it) in this tendering exercise falls within one or more of the exemptions contained in Part II of the Act. If the Contractor does consider any such exemption to exist, then it must set out for the Customer in detail, at the earliest opportunity (preferably when providing the information) the particular information to which any exemption applies and the specific grounds for contending that the exemption exists.
- 28.3 The Contractor shall provide the Customer with all reasonable assistance and co-operation to enable it to comply with any requests for information received under the Act within the prescribed time limits.
- 28.4 The Contractor must take any necessary legal advice in relation to the operation of the Act at the earliest opportunity.

28.5 No liability shall arise on the part of the Customer in respect of the disclosure of any information by it in proper compliance with the Act.

## **29. Transparency**

29.1 The Contractor acknowledges that the Customer is subject to the Elected Local Policing Bodies (Specified Information) Order 2011 and hereby gives its consent for the Customer to publish the Contract.

29.2 Any information which the Contractor reasonably designates as confidential (in accordance with regulation 21 of the Public Contract Regulations 2015) maybe redacted by the Contractor unless:

(a) The information must be disclosed in accordance with Clause 28 (Freedom of Information Act)

(b) In the opinion of the Customer the Contractor has not acted reasonably in designating material and information as confidential.

## **30. Notices**

30.1 Any notices or other communication to be given under the Contract shall be in writing in English and shall be deemed to have been given if delivered by hand or by registered post or facsimile to a Party at the last known business address of that Party or such other address as one Party may from time to time designate by written notice to the other.

## **31. Variation**

31.1 No change to the Contract shall be valid or binding on either Party unless in writing and signed by a Duly Authorised Officer of each Party.

## **32. Waiver**

32.1 Failure or neglect by the Customer to enforce at any time any of the provisions of the Contract shall not be construed nor shall be deemed to be a waiver of the Customer's rights hereunder nor in any way affect the validity of the whole or any part of the Contract nor prejudice the Customer's rights to take subsequent action.

## **33. Governing Law and Jurisdiction**

33.1 The validity, construction and performance of the Contract shall be governed by English Law and shall be subject to the exclusive jurisdiction of the English Courts.

## **SPECIAL CONDITIONS OF CONTRACT**

### **1. Introduction and Definitions**

- 1.1 The definitions used in these Special Conditions shall be those set out in Clause 1 of the Conditions.
- 1.2 These Special Conditions shall form part of the Contract between the Customer and the Contractor and, pursuant to Clause 25.3 of the Conditions shall, if there is a conflict, take precedence over the other Contract Documents
- 1.3 The Contractor shall be deemed to have full notice and knowledge of all the Contract Documents.

### **2. Duration of the Contract**

- 2.1 Unless previously terminated in accordance with the terms of the Contract, the Contract shall commence on 12 July 2018 and shall continue in full force and effect for three months and expire on 11 October 2018.

### **3. Adjustments to Specification and Scope of the Services**

- 3.1 The Customer shall be entitled to make adjustments at any time to the Specification and/or make changes to the scope of the Services at any time for the duration of the Contract. Such adjustments to the Specification and/or changes to the scope of the Services may, at the Customer's sole discretion (as indicated to the Contractor in writing), cause adjustments to be made to the Price.
- 3.2 Where the Customer indicates that the Contractor is entitled to make adjustments to the Price in accordance with Clause 3.1, the Contractor shall submit to the Customer for consideration a detailed breakdown of the proposed Price adjustments by reference to the pricing schedules in the Contractor's Tender, together with evidence of any cost increases that may be incurred by the Contractor as a result of the adjustments being made to the Specification and/or the changes to the scope of the Services ("the Proposal"). The Customer shall then consider the Proposal and indicate in writing to the Contractor whether such Proposal is, acting reasonably, accepted or rejected by the Customer. If rejected, the Customer shall give reasons for its rejection and shall invite the Contractor to submit a revised Proposal to the Customer. If such revised Proposal is, acting reasonably, rejected by the Customer, the Contractor shall not be entitled to submit a further revised Proposal and the Price shall not be adjusted.

### **4. Customer's Premises**

- 4.1 The Customer reserves the absolute right to close any of the Premises by giving one month's written notice to the Contractor. The Customer shall not be

liable for any costs and/or losses howsoever incurred by the Contractor due to the closure of such Premises.

## **5. Customer's Insurance**

5.1 The Contractor shall give immediate notice to the Customer of the circumstances of any accident or damage which is likely to form the basis of a claim under the Customer's insurance policies and shall give all necessary information and assistance in respect thereof that the Customer's insurers may require. The Contractor shall not negotiate, pay, admit, settle or repudiate any claim without the prior written consent of the Customer's insurers and shall permit the Customer's insurers to take proceedings in the name of the Contractor to recover the compensation or to secure an indemnity from any third party in respect of any of the matters covered by the Customer's insurance.

## **6. Contractor's Insurance**

6.1 The Contractor shall obtain and shall provide to the Customer on request, satisfactory evidence that it holds the following insurance policies:

6.2 public liability insurance to the value of £5 million in respect of any one occurrence and in the aggregate in any one period of insurance, extended to include indemnity to principal;

6.3 workers compensation insurance in accordance with applicable legislation;

6.4 professional indemnity insurance up to a limit of £2 million in respect of any one occurrence and in the aggregate in any one period of insurance;

6.5 employment liability insurance of £5 million in line with statutory requirements, extended to include indemnity to principal.

## **7. Employees**

7.1 The Employees shall be adequately supervised by the Contractor whilst on the Premises.

7.2 The Contractor shall procure that its Employees:

(a) are careful, skilled, honest, experienced and suitably qualified to perform the Services;

(b) perform their duties in a competent, orderly and efficient manner;

(c) do not smoke on the Premises;

(d) are properly attired and presentable;

- (e) do not engage in behaviour or activities which are contrary to the Customer's interest;
  - (f) do not accept or solicit any gratuity, tip or other benefit or reward in connection with the Contract;
  - (g) do not consume alcohol on the Premises;
  - (h) do not engage in substance abuse.
- 7.3 Sufficient levels of staffing shall be maintained by the Contractor to ensure that the Services are provided at all times in accordance with the terms of the Contract and provisions shall be made by the Contractor to cover all holiday and sickness absence.
- 7.4 Only authorised personnel shall be permitted access to the Premises and no person shall be employed by the Contractor to perform any of the Services until clearance has been received from the Customer (as previously indicated to the Contractor in writing) that such person is suitable to have access to the Premises.
- 7.5 The Contractor shall procure that all Employees who have access to Police Premises and/or Police information complete a 'Vetting Application Form for Non-Police Personnel as provided by the Customer, as amended from time to time. The Contractor shall provide such information to the Customer as required by the Customer to allow it to carry out all necessary checks with regard to the vetting and security clearance of Employees.
- 7.6 The Contractor is responsible for providing a certified copy of one of the following documents to be submitted with each individual's Vetting Application Form: Please note that the Contractor must obtain two different copies from options b to g, if the individual is a British National choosing not to submit a full ten-year passport.
- (a) For British Nationals
    - Either
    - (i) Full ten-year passport,
  
    - Or two of the following:
    - (ii) British driving licence/International driving licence
    - (iii) P45
    - (iv) Birth Certificate
    - (v) Cheque Book and Bank Card, with 3 statements and proof of signature
    - (vi) Credit Card, with 3 statements and proof of signature
    - (vii) Credit Card, with photograph of individual.
  
  - (b) For EEU Nationals:
    - (i) Full EEA Passport or
    - (ii) National Identity Card

- (c) Other Nationals:
  - (i) Full Passport

- 7.7 The Customer reserves the right to refuse any Employee access to the Premises without giving a reason. The Customer reserves the right to conduct a vetting review periodically
- 7.8 The Contractor shall, upon request, provide evidence to the satisfaction of the Customer's medical officer that any Employee, including temporary Employees, are medically fit to perform their duties.
- 7.9 The Contractor shall not employ anyone under the age of sixteen (16) years to undertake any work within the Contract. The prior written consent of the Customer shall be obtained by the Contractor should the Contractor wish to employ anyone between the ages of sixteen (16) years and eighteen (18) years.
- 7.10 The Contractor shall procure that Employees do not bring non-work persons (including, without limitation, children) onto the Premises.
- 7.11 Complaints made against any Employee shall be investigated by the Customer. The Customer reserves the right to request that the Contractor, where necessary, suspend any Employee under investigation whilst alleged incidents are investigated and to make that Employee available to the Customer to enable it to conduct its enquiry. The Contractor shall accept unequivocally the findings and/or recommendations of such investigation and shall implement such recommendations as appropriate. Any costs incurred in connection with this Clause 7.8 shall be borne by the Contractor.
- 7.12 Employees working at the Premises shall be expected to abide by the Customer's policies in respect of equality, dress code and conduct and any other policies of the Customer which are brought to the attention of the Employees and/or the Contractor by the Customer from time to time.
- 7.13 The Contractor shall provide identification badges for its Employees.
- 7.14 Any Employee whom the Customer deems to be unsuitable to perform the Services for whatever reason shall immediately be removed from the Premises by the Customer and the Customer shall be entitled to require the Contractor at no cost to the Customer to replace such Employee. The Contractor shall not seek access to any report obtained by the Customer nor make detailed inquiries as to the reason for the Customer's decision to remove such Employee. Such removal shall, however, only be required after the Contractor has been given an opportunity to make representations to the Customer.
- 7.15 The Contractor shall keep the Customer fully informed about industrial relations with Employees and give the maximum possible advance warning of prospective industrial action by the Employees.

7.16 The Contractor shall provide and shall procure that the Employees carry at all times when on the Premises and at any establishment of the Customer such identification (including, without limitation, photographic identification) as specified by the Customer and produce such identification when requested by any member of the Customer's staff.

7.17 The Contractor shall be responsible for the safekeeping of any keys, passes and other means of access to the Premises provided to the Contractor by the Customer and shall only permit such keys, passes and other means of access to the Premises to be given to those Employees whose names and addresses have been supplied to the Customer and then only to the extent required for the purposes of providing the Services. In addition, the Contractor shall ensure that the Customer is informed immediately of the loss of any keys, passes and other means of access to the Premises and shall reimburse the Customer any cost of replacement and/or any reasonable security measures implemented as a result of such loss.

## **8. Transfer of Undertakings for the Protection of Employees ("TUPE")**

8.1 To the extent that the TUPE Regulations apply to the Contract or to a subsequent transfer of the Services or other service provision change under the Contract at the expiry or sooner determination of this Contract, the following provisions of this Condition 8 will apply in respect of any employees who are deemed to be transferred in accordance with the TUPE Regulations.

8.2 If the TUPE Regulations apply on the expiry or earlier termination of the Contract:

(a) the Contractor shall comply with its obligations under regulations 11 and 13 of the TUPE Regulations and shall provide to the Replacement Provider all information and co-operation necessary to enable it to comply with its obligations under regulations 11 and 13;

(b) the Contractor shall provide the Customer and any Replacement Provider within 14 days on written notice with such employment data held by the Contractor in relation to the employees as is required to be provided under regulation 11 and such other data as it may specify. For the avoidance of doubt such notification shall be at the discretion of the Customer and may be prior to the expiry or earlier termination to facilitate re-tendering however such circumstances arise and shall not be limited to the notification periods in regulation 11 of the TUPE Regulations; and

(c) the Customer shall use reasonable endeavours to procure that the Replacement Provider shall comply with its obligations under regulations 11 and 13 of the TUPE Regulations and shall provide all information and co-operation necessary to the Contractor to enable it to comply with its obligations under regulations 11 and 13.

- 8.3 The parties acknowledge and agree that the Contractor shall be solely liable for, and shall indemnify the Customer (and any Replacement Provider) in respect of any Redundancy Costs and/or all costs, expenses (including, but not limited to, legal and other professional fees and expenses) losses, damages and other liabilities (of whatever nature, whether contractual, tortious or otherwise) arising from the discontinuance of the Services pursuant to the Contract which occurs prior to the transfer to the Replacement Provider.
- 8.4 The Contractor shall indemnify and keep indemnified the Customer (and where relevant any Replacement Provider) against all costs, expenses (including, but not limited to, legal and other professional fees and expenses) losses, damages and other liabilities (of whatever nature, whether contractual, tortious or otherwise) suffered or incurred by reason of any proceeding, claim or demand:
- (a) by any employee in relation to the employment or termination of employment of any employee after the date of commencement of provision of the Services by the Contractor to the extent such costs arise from any act or omission of the Contractor; and
  - (b) to the extent that it arises from any failure by the Contractor to comply with its obligations under regulations 11 and 13 of the TUPE Regulations save where such failure is caused by Customer's breach of its obligations under this Condition.
- 8.5 The Customer agrees that if any claim, demand or action is made or threatened that may give rise to a claim for an indemnity under this Condition then the Customer shall:
- (a) notify the Contractor as soon as is reasonably practicable;
  - (b) promptly give the Contractor all reasonable co-operation, assistance and information is be relevant to the claim at the Contractor's expense; and
  - (c) not admit, defend, compromise, negotiate or settle the claim or action without the written consent of the Contractor (such consent not to be unreasonably withheld).

## **9. Third Party Assistance**

- 9.1 In the event of the Contractor failing to carry out the Services in accordance with the terms of the Contract, the Customer shall notify the Contractor in writing specifying the failure and requesting it to be remedied. If the Contractor has not remedied the failure to the satisfaction of the Customer, the Customer shall (without prejudice to any other right or remedy available to the Customer) be entitled:
- (a) to have the Services or any part or parts of the Services carried out by a third party until such time as the Customer shall, at its sole discretion, determine (as indicated to the Contractor in writing) and in the meantime

to debar the Contractor, its Employees and agents from the Premises or part thereof; and

- (b) to recover from the Contractor the cost incurred by the Customer for any work carried out by a third party.

## **10. Poor Performance**

10.1 The Customer aims to achieve a harmonious relationship with the Contractor and it is anticipated that shortfalls in performance will be brought to the attention of the Contractor in accordance with Clause 10.3 as and when they occur.

10.2 Without prejudice to any other rights or remedies the Customer might have under the Contract, the Customer shall be entitled to reduce payments in accordance with Clause 10.3 if the Contractor's performance fails to reach acceptable standards and/or if the Contractor is in breach of the terms of the Contract. Reductions will be applied to the payment for the month following the identification of poor performance (e.g. poor performance in month 4: payment reduced in month 5).

10.3 The Customer shall notify the Contractor in writing if, at the Customer's sole discretion, it believes that the Contractor is failing to reach acceptable standards and/or is in breach of the terms of the Contract. Such notice shall set out the details of the poor performance and/or breach and shall require the Contractor to take such steps as are specified to rectify the poor performance and/or breach within such period as may be stipulated in the notice at the Contractor's sole expense. If the poor performance and/or breach is not rectified by the Contractor within the period stipulated in the notice served, without prejudice to any other rights or remedies the Customer might have under the Contract, the Customer shall be entitled to make such deductions from any payment to be made to the Contractor as the Customer shall reasonably determine by way of compensation having regard to:

- (a) the value of the Service not performed or not performed to the required standard;
- (b) any loss of income, fees, charges or costs suffered by the Customer as a result of such failure or omission by the Contractor;
- (c) any reasonable and unavoidable sum which the Customer is liable to pay to any third party as a direct consequence of such failure by the Contractor; or
- (d) any additional reasonable administrative costs incurred by the Customer as a result of such failure by the Contractor (for example arranging for the remedying of the deficient Service whether by the Contractor or a third party).

## **11. Monitoring Performance**

11.1 The Customer shall monitor the Services in accordance with the procedures set out in the Specification.

## **12. Disclosure of Information on Re-Tendering**

12.1 Subject to Clause 12.2, the Contractor shall supply to the Customer any information (whether related to its personnel or otherwise) requested in writing by the Customer.

12.2 The information requested under this Clause shall be limited to such information as the Customer considers to be reasonably necessary to enable the Customer to act fairly, properly and in accordance with its legal obligations (whether under statute (including without limitation the Transfer of Undertakings (Protection of Employment) Regulations 1981) or common law or otherwise) in relation to the re-tendering of the Services or part thereof or the tendering of any similar services to the Services.

## **13. Assistance with Legal Proceedings**

13.1 The Contractor shall provide, at no cost to the Customer, such assistance (including, without limitation, information statements and witnesses) as the Customer may reasonably request in respect of any legal or disciplinary proceedings arising in connection with the provision of the Services.

13.2 The Contractor shall notify the Customer fully and promptly of any matter, which may give rise to any claim or legal proceedings in connection with the provision of the Services.

## **14. Equipment**

14.1 Unless otherwise agreed in writing by the Customer, all equipment necessary to enable the Contractor to carry out the Services shall be provided by the Contractor.

## **15. Free Issue Materials**

15.1 Where the Customer for the purposes of the Contract issues materials free of charge to the Contractor, such materials shall be and remain the property of the Customer. The Contractor shall maintain all such materials in good order and condition and shall use such materials solely in connection with the Contract. The Contractor shall notify the Customer of any surplus materials remaining after completion of the Services and dispose of them as the Customer shall direct in writing.

## **16. Sustainability and Environmental Policies**

16.1 Should the Customer instigate or adopt any "Sustainability or Environmental Policies" the Contractor shall adhere to such policies and any costs incurred by the Contractor as a result of adhering to such policies shall be met by the Contractor.

## **17. Exit Management**

17.1 The appointed Contractor(s) will be required to liaise fully with the existing Contractor as appropriate, to ensure a smooth and efficient transfer of services at the end of the current service contract and commencement of the new service contract. Any specific issues in this regard should be raised with the Treasurer of the Customer particularly if any costs over and above the prices stated in the tender are likely to be charged.

## SCHEDULE 1

### 1. Processing, Personal Data and Data Subjects

1.1 The Contractor shall comply with any further written instructions with respect to processing by the Customer.

1.2 Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>
Nature and purposes of the processing	<i>[Please be as specific as possible, but make sure that you cover all intended purposes.</i>  <i>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</i>  <i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc.]</i>
Type of Personal Data	<i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc.]</i>
Categories of Data Subject	<i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc.]</i>
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	<i>[Describe how long the data will be retained for, how it be returned or destroyed]</i>

## **SECTION FOUR: PRICE SCHEDULE**

**[REDACTED]**

The prices quoted are exclusive of expenses which will be charged as incurred.

Rate based on a standard working day – Monday to Friday 9am to 5pm excluding English public holidays

## SECTION FIVE: TENDER RESPONSE



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