

Housing
Ombudsman Service

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Contract
for the provision of Call Answering & Enquiries Services

Service Provision Start Date:	3rd April 2017
Contract Reference:	THO Enquiries '17

This CONTRACT is made on the 31st March 2017 (the "Effective Date")

BETWEEN:

- (1) The Housing Ombudsman, hereinafter referred to as ("THO" or the "Customer"), a corporation sole whose principal office is at Exchange Tower 1, Exchange Square London E14 9GE; and
- (2) On Net Communications 35 Hope Street, Crook, County Durham, DL15 9HU; company registration number 3919252

together known as the "Parties".

WHEREAS:

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

IT IS AGREED as follows:

1. Interpretation

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

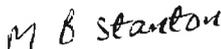
2. Provision of the Services

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

3. Duration

3.1. This Contract shall commence on the Effective Date (and unless terminated at an earlier date in accordance with its terms) shall continue in effect until the earlier of:

- 3.1.1. 1st April 2019 (the "Expiry Date");
- 3.1.2. any date on which a termination of this Contract for convenience by THO is effective (the Parties agree that THO may terminate this Contract for convenience at any time on giving the Contractor no less than three months' written notice);
- 3.1.3. the date specified by THO if THO terminates this Contract pursuant to Conditions 11(c), 20.4(a), 20.7(a) or 21;
- 3.1.4. any date on which the Contract Cap is met, as described in paragraph 2 of Schedule 2 (CHARGES).

Signed by and on behalf of THO:		Signed by and on behalf of the Contractor:	
Name (Print):	Rosalind D'Cruz	Name (Print):	Maureen Stanton
Title:	Commercial Manager	Title:	Account Manager
Signature:		Signature:	

Terms and Conditions for the Provision of Services

1. **Interpretation**

1.1 In these Conditions the following definitions apply;

"Affected Party" has the meaning given to it in Condition 12.1.

"Approval" means the written consent of THO and "Approve" shall be construed accordingly.

"Business Continuity and Disaster Recovery Plan" means the plan developed by the Contractor to ensure continuity of the Services through disaster recovery and which sets out business continuity procedures.

"Change" means any amendment to the scope and/or manner of provision of the Services and which is carried out in accordance with the Change Control Procedure.

"Change Control Procedure" has the meaning given in paragraph 1.1 of Schedule 3 (CHANGE CONTROL)

"Compliance Report" means the monthly report produced by the Contractor which details the monthly compliance checks carried out on the following requirements identifiers: Proc T005/7/8.

"Contract Cap" means the contract's maximum value as set out in paragraph 2.1 of Schedule 2 (CHARGES).

"Contract" means the agreement concluded between THO and the Contractor, including specifications, plans and other documents which are incorporated or referred to therein.

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

"Contractor Confidential Information" has the meaning given to it in Condition 29.2.2.

"DPA" means the Data Protection Act 1998 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

"Effective Date" means the date identified as such on the signature page of this Contract.

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

"Exit Assistance" means the assistance provided by the Contractor to the Customer and/or its Replacement Contractor pursuant to the Exit Plan, such assistance to be provided in accordance with the Conditions of this Contract in order to facilitate the smooth handover of services (if relevant) from the Contractor to the Customer or Replacement Contractor (as the context requires).

"Exit Plan" means the plan to be developed by the Contractor pursuant to Condition 22 and Schedule 1 (SERVICES).

"Expiry Date" means the date identified as such on the signature page of this Contract.

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

"Force Majeure Event" means and is limited to any of the following events or circumstances but only to the extent that the event or circumstances is beyond the reasonable control of the person seeking to claim that the event or circumstances amounts to a Force Majeure Event:

- (a) war or terrorist activity; or
- (b) civil commotion; or
- (c) action taken by the Government; or
- (d) nuclear accident or act of God (including flood or lightning); or
- (e) fire or serious explosion (other than where caused by the negligence or wilful default of the person seeking to claim a Force Majeure Event).

"Force Majeure Notice" is a notice from the Contractor to the Customer providing details of the Force Majeure Event and seeking relief from its obligations to perform the Services.

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

"Key Personnel" shall mean those named members of Contractor Staff as identified in paragraph 1.1 of Schedule 4 (KEY PERSONNEL).

"KPI" means the key performance indicators as identified in Schedule 7 (SERVICE PERFORMANCE).

"KPI Cap" has the meaning given to it in paragraph 4.4 of Schedule 2 (CHARGES) and/or as amended by paragraph 3 Part A of Schedule 7 (SERVICE PERFORMANCE).

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

"New Scope" has the meaning given to it in Schedule 1 (SERVICES).

"Order" means a THO purchase order or other official document specifying THO's requirements for the Contract to which these Conditions are annexed.

"Performance Monitoring Report" has the meaning given in paragraph 1.1 to Part B of Schedule 7 (SERVICE PERFORMANCE).

"Personal Data" means any information relating to (i) an identified or identifiable person, and (ii) an identified or identifiable legal entity (where such information is protected similarly as personal data or personally identifiable information under applicable data protection laws and regulations), where such data is processed as part of the Services.

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

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

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

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

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

"Replacement Contractor" means any person who provides Replacement Services to the Customer (directly or indirectly) following the termination or expiry of this Contract or the termination or expiry of the provision of any of the Services by the Contractor;

"Replacement Services" means any services which are identical or substantially similar to any of the Services and which the Customer receives following the termination or expiry of this Contract or the termination or expiry of the provision of any of the Services by the Contractor.

"Services" means all work described in Schedule 1 (SERVICES) which the Contractor is required to supply under the Contract and shall, where the context so admits, include any materials, articles and goods to be supplied thereunder.

"Service Charges" means the total monthly charge for all Service Lines exclusive of Value Added Tax payable to the Contractor for the Service Period without deduction of Service Credits.

"Service Credits" means the financial adjustments to the Service Charges for Service failures calculated in accordance with Schedule 2 (CHARGES).

"Service Implementation Plan" means the plan developed by the Contractor pursuant to Schedule 8 (SERVICE IMPLEMENTATION PLAN).

"Service Line" is a designated, individually costed Service, provided by the Contractor to the Customer.

"Service Line Service Charges" means the monthly service price exclusive of Value Added Tax payable to the Contractor in respect of any Service Line for the Service Period without deduction of Service Credits.

"Service Day" has the meaning given to it in paragraph 4 of Schedule 1 (SERVICES)

"Service Period" means a calendar month.

"Service Points" has the meaning given in Schedule 7 (SERVICE PERFORMANCE) paragraph 2 of Part A.

"Service Satisfaction Survey" has the meaning given in paragraph 4.1 of Annex A Part B to Schedule 7 (SERVICE PERFORMANCE).

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

"Term" means the period from the Effective Date to the Expiry Date.

"THO Client" means any member of the public who interacts with the Contractor in the performance of its role under the Contract.

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

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

2. Variation of Conditions

- 2.1 The Services shall be supplied in accordance with these Conditions. Any conditions which the Contractor may seek to impose and which in any way add to, vary or contradict these Conditions (including, without limitation, any Contractor purchase order terms or standard conditions of sale) shall be excluded and not form part of the Contract, unless each of such conditions has been specifically agreed to in writing by THO in accordance with Schedule 3 (CHANGE CONTROL).
- 2.2 The Parties acknowledge and agree that if a Change is required to the Contract as a result of a change in Law then notwithstanding any provision to the contrary in this Contract, neither THO or the Contractor shall be entitled to reject the Change. The Parties shall act in good faith when determining who bears the cost of such Change save that the Contractor acknowledges that THO shall only be required to contribute to the cost of such Change where the relevant Change in Law impacts the business of THO.
- 2.3 Acceptance of an Order shall be deemed to bind the Contractor to these Conditions and the Services shall not be supplied or performed by the Contractor, his employees, agents or representatives, except in accordance herewith.
- 2.4 The Contract contains the whole agreement between the Parties in respect of its subject matter and supersedes and replaces any prior written or oral agreements, representations or

understandings between them relating to such subject matter. The Parties confirm that they have not entered into the Contract on the basis of any representation that is not expressly incorporated into the Contract. Nothing in the Contract shall purport to exclude liability for any fraudulent statement or act.

3. Contractor's Status

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

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

4. Contractor's Personnel

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

5. Manner of Carrying out the Services

- 5.1 The Contractor shall comply with Schedule 8 (SERVICE IMPLEMENTATION PLAN) in relation to implementing the Services.
- 5.2 The Contractor shall make no delivery of materials, plant or other things nor commence any work on the Premises without obtaining THO's prior consent.
- 5.3 Access to the Premises shall not be exclusive to the Contractor but only such as shall enable it to carry out the Services concurrently with the execution of work by others. The Contractor shall co-operate with such others as the Customer may reasonably require.
- 5.4 THO shall have the power at any time during the progress of the Services to order in writing:
 - (a) the removal from the Premises of any materials which in the opinion of THO are either hazardous, noxious or not in accordance with the Contract, and/or
 - (b) the substitution of proper and suitable materials, and/or
 - (c) the removal and proper re-execution (notwithstanding any previous test thereof or interim payment thereof) of any work which, in respect of material, workmanship or otherwise is not in the opinion of THO in accordance with the Contract.
- 5.5 On completion of the Services the Contractor shall remove its plant, equipment and unused materials and shall clear away from the Premises all rubbish arising out of the Services and leave the Premises in a neat and tidy condition.

6. Time of Performance

The Contractor shall begin performing the Services on the date stated in the Order and shall complete them by the date stated in the Order or continue to perform them for the period stated in the Order (whichever is

applicable). Time is of the essence of the Contract. THO may by written notice require the Contractor to execute the Services in such order as THO may decide, and in the absence of such notice the Contractor shall submit such detailed programmes of work and progress reports as THO may from time to time require.

7. Forms

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

8. Free Issue Materials

Where THO for the purpose of the Contract issues materials, information or data free of charge to the Contractor such materials, information or data shall be and remain the property of THO in accordance with the provision of Condition 10.1. The Contractor shall maintain all such materials, information or data in good order and condition and shall use such materials, information or data solely in connection with the Contract. The Contractor shall notify THO of any materials, information or data remaining after completion of the Services and shall return or dispose of them as THO may direct. Waste of such materials, information or data arising from bad workmanship or negligence of the Contractor or any of the Staff shall be made good at the Contractor's expense. Without prejudice to any other of the rights of THO, the Contractor shall deliver up such materials, information or data whether processed or not to THO on demand.

9. Audit

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

10. Patents and Information

10.1 Notwithstanding any provisions to the contrary, all intellectual property rights vesting to THO prior to the Effective Date or developed or acquired by THO during the Term (whether in connection with the Contract or otherwise) shall remain vested in THO.

10.2 It shall be a condition of the Contract that the Services (other than those parts of the Services which incorporate designs furnished by THO) shall not infringe any patent, trade mark, registered design, copyright or other right in the nature of intellectual or industrial property of any third party and the Contractor shall indemnify THO against all actions, claims, demands, costs and expenses which THO may suffer or incur as a result of or in connection with any claim by a third party that such elements of the Services are so infringing.

10.3 All intellectual property rights (including ownership and copyright) in any specifications, instructions, plans, drawings, patents, models, designs or other materials:

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

10.4 The Contractor agrees that THO may require the Contractor to co-operate with any third party and such co-operation may include the provision of any confidential information and/or Contractor intellectual property (including but not limited to details about the Contractor's THO call handling processes) PROVIDED THAT the Contractor shall not be required to provide the third party with any pricing information or intellectual property proprietary to the Contractor.

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

11. Default by Contractor

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

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

These rights shall be in addition to and without prejudice to any other rights THO may have at law, equity or otherwise.

12. Business Continuity and Disaster Recovery Plan and Force Majeure

- 12.1 The Contractor shall upon request from THO provide the THO its Business Continuity and Disaster Recovery Plan. The Contractor shall ensure that such Business Continuity and Disaster Recovery Plan is prepared in accordance with Good Industry Practice and maintained as current and, in particular, is updated promptly following a Change to the Contract.
- 12.2 A Party (for the purposes of this Condition 12, the "Affected Party") may claim relief under this Condition 12 from liability for failure to meet its obligations under this Contract for as long as and only to the extent that the performance of those obligations is directly affected by a Force Majeure Event. Any failure or delay by the Contractor in performing its obligations under this Contract which results from a failure or delay by an agent, sub-contractor, Staff or supplier shall be regarded as due to a Force Majeure Event only if that agent, sub-contractor, Staff or supplier is itself impeded from complying with an obligation to the Contractor by an event which, if that person was a party to this Contract, would be considered a "Force Majeure Event".
- 12.3 The Affected Party shall as soon as reasonably practicable issue a Force Majeure Notice, which shall include details of the Force Majeure Event, its effect on the obligations of the Affected Party and any action the Affected Party proposes to take to mitigate its effect.
- 12.4 If the Contractor is the Affected Party, it shall not be entitled to claim relief under this Condition 12 to the extent that consequences of the relevant Force Majeure Event should have been foreseen and prevented or avoided by a prudent provider of services similar to the Services (including through the operation of the Contractor's Business Continuity and Disaster Recovery Plan), operating to the standards required by this Contract.
- 12.5 Subject to Condition 12.3, as soon as practicable after the Affected Party issues the Force Majeure Notice, and at regular intervals thereafter, the Parties shall consult in good faith and use reasonable endeavours to agree any steps to be taken and an appropriate timetable in which those steps should be taken, to enable continued provision of the Services affected by the Force Majeure Event.
- 12.6 The Parties shall at all time following the occurrence of a Force Majeure Event and during its subsistence use their respective reasonable endeavours to prevent and mitigate the effects of the Force Majeure Event. Where the Contractor is the Affected Party, it shall take all steps in

accordance with Good Industry Practice to overcome or minimise the consequences of the Force Majeure Event.

13. Price and Payment

- 13.1 The Service Charges shall be 'net', that is, set out in this Contract after deduction of all agreed discounts. The amount of any duty additional to the Service Charges and any early settlement discounts shall be shown separately in the Contract.
- 13.2 Payment for the Services rendered, unless stated otherwise in the Contract, shall be made thirty days after receipt by THO of a correctly rendered invoice. THO will seek to encourage genuine early settlement discounts whenever possible. Value Added Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge. Delays in payment of invoices are possible if the Contractor does not show THO's Order number on its invoices. Payment terms shall not be varied without the express authority of THO.
- 13.3 Whenever under the Contract any sum of money shall be recoverable from or payable by the Contractor, the same may be deducted from any sum then due, or which at any time thereafter may become due, to the Contractor under the Contract or under any other contract with THO.
- 13.4 Service Credits shall be calculated by reference to the number of Service Points accrued in any one Service Period pursuant to the provisions of Schedule 7 (SERVICE PERFORMANCE).
- 13.5 For each Service Period the Service Points accrued shall be converted to a percentage reduction to the Service Charges or Service Line Charges for the relevant Service Period in accordance with the calculations provided in paragraph 4 of Schedule 2 (CHARGES).
- 13.6 Service Credits are a reduction of the Service Charges or Service Line Charges payable in respect of the relevant Services to reflect the reduced value of the Services actually received and are stated exclusive of VAT. Except for Service Credits payable in respect of the Contractor's breach of KPI2 (Data Protection Violations) (as set out in Annex A to Part A of Schedule 7 (SERVICE PERFORMANCE), Service Credits shall be the exclusive remedy of THO in relation to breaches of the KPIs. Service Credits payable in respect of the Contractor's breach of KPI2 (Data Protection Violations) shall be without prejudice to any other right or remedy that THO may have under this Contract or otherwise in respect of the relevant act or omission by the Contractor.
- 13.7 Service Credits shall be shown as a deduction from the amount due from the Customer to the Contractor in the invoice for the Service Period immediately succeeding the Service Period to which they relate.

14. Warranties

- 14.1 The Contractor warrants to THO that the Services shall be performed by appropriately qualified and trained personnel with due care and diligence and to such high standard of quality as it is reasonable for THO to expect in all the circumstances (such standard shall be no less than Good Industry Practice).
- 14.2 Without prejudice to any other right or remedy if the Services or any part thereof are not performed in accordance with the Contract then THO shall be entitled:
 - (a) at THO's option to require the Contractor to supply a replacement for the Services in accordance with the Contract within the time stated in writing by THO; or
 - (b) at THO's sole option and whether or not THO has previously required the Contractor to supply any replacement for the Services to require the repayment of any part of the Services Charges which have been previously paid in respect of the deficient Services.

15. Limitation of Liability

- 15.1 Nothing in this Contract shall limit the liability of any person for losses, damages, claims, demands, actions, costs, charges, expenses and liabilities arising directly or indirectly as a result of:
 - (a) personal injury or death arising from its negligence, or

- (b) fraud, or
- (c) any other liability which cannot be limited under applicable Law.

- 15.2 Subject to Condition 15.1, neither party shall be liable to the other party pursuant to this Contract, whether in contract or otherwise howsoever arising, for any loss of business, loss of opportunity, loss of goodwill or loss of anticipated savings or any indirect or consequential losses or damages.
- 15.3 Subject to Conditions 15.1, 15.2 and 15.5 the maximum aggregate liability of the Contractor for breach of this Contract shall be £500,000.
- 15.4 Subject to Conditions 15.1 and 15.2 the maximum aggregate liability of THO for breach of this Contract shall be limited to the Contract Cap.
- 15.5 The Contractor's liability pursuant to Condition 30.6 shall not be subject to the limit set out in Condition 15.3 and shall be uncapped.

16. Insurance

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

17. Transfer and Sub-Contracting

- 17.1 Neither party shall assign the whole or any part of the Contract. The Contractor shall not sub-contract the production or supply of the Services or any part thereof without the previous consent in writing of THO.
- 17.2 The Contractor shall not sub-contract the provision of all or any part of the Service Lines without the prior written approval of THO. THO shall be entitled to request and the Contractor shall provide any such information reasonably required by THO to enable THO to approve (or otherwise) any such sub-contractor.

17A Employees

The Contractor acknowledges and agrees that the provisions of Schedule 9 (TUPE) shall apply.

18. Patents, etc.

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

19. Confidentiality

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

20 Anti-Bribery and Corruption

20.1 The Contractor shall:

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

- (c) comply with THO's ethics, anti-bribery and anti-corruption policies and all relevant industry codes on anti-bribery or anti-corruption, in each case as THO or the relevant industry body may update them from time to time ("Relevant Policies");
- (d) have and shall maintain in place throughout the Term its own policies and procedures, including adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, the Relevant Policies and Condition 20.1(b), and will enforce them where appropriate;
- (e) promptly report to THO any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this Contract;
- (f) immediately notify THO (in writing) if a foreign public official becomes an officer or employee of the Contractor or acquires a direct or indirect interest in the Contractor (and the Contractor warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the Effective Date); and
- (g) within 2 (two) months of the Effective Date, and annually thereafter, certify to THO in writing signed by an officer of the Contractor, compliance with this Condition 20.1 by the Contractor and all persons associated with it under Condition 20.2. The Contractor shall provide such supporting evidence of compliance as THO may reasonably request.

20.2 The Contractor shall ensure that any person associated with the Contractor who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Contractor in Condition 20.1 ("Relevant Terms"). The Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to THO for any breach by such persons of any of the Relevant Terms.

20.3 For the purpose of Condition 20.1 and 20.2, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of this Condition 20 a person associated with the Contractor includes any sub-contractor of the Contractor.

20.4 Breach of Condition 20.1 shall be deemed a material breach under this Contract and if the Contractor, or any member(s) of Staff, engages in conduct prohibited by Condition 20.2, THO may, notwithstanding any other Condition:

- (a) terminate this Contract; and
- (b) recover from the Contractor the full amount of any liabilities, costs, damages, claims, expenses or losses suffered by THO resulting from the termination, including the cost reasonably incurred by THO of making other arrangements for the supply of the Services and any additional expenditure incurred by THO throughout the remainder of the Term.

20.5 The Contractor shall take all reasonable steps to prevent fraud by the Staff in connection with this Contract and its subject matter and the receipt of any monies from THO.

20.6 The Contractor shall notify THO immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur in connection with this Contract, its subject matter or the receipt of any monies from THO.

20.7 If the Contractor or any member of Staff commits any fraud in relation to this Contract, THO may, notwithstanding any other Condition:

- (a) terminate this Contract; and
- (b) recover from the Contractor the amount of any liabilities, costs, damages, claims, expenses or losses suffered by THO resulting from the termination, including the cost reasonably incurred by THO of making other arrangements for the supply of the Services and any additional expenditure incurred by THO throughout the remainder of the Term.

20.8 THO's rights and remedies under this Contract shall survive inspection, acceptance and payment

20A Modern Slavery

20A.1 The Contractor shall at all times comply with:

- (a) all applicable Laws, regulations and sanctions relating to modern slavery and human trafficking including but not limited to the Modern Slavery Act 2015; and

(b) any anti-slavery policy adopted by THO from time to time.

20A.2 The Contractor shall implement and maintain throughout the Term due diligence procedures for its own suppliers, permitted sub-contractors and other participants in its supply chains, to ensure that there is no slavery or human trafficking in its supply chains.

20A.3 The Contractor shall notify THO as soon as it becomes aware of:

(a) any breach, or potential breach, of any anti-slavery policy adopted by THO from time to time; or

(b) any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.

20A.4 The Contractor shall permit THO, and any person nominated by it for this purpose, to have such access on demand to the Contractor's premises, personnel, systems, books and records as THO may require to verify the Contractor's compliance with this Condition 20A.

21. **Insolvency**

THO may at any time by notice in writing summarily terminate the Contract without compensation to the Contractor in any of the following events:

(a) if the Contractor, being an individual, or, where the Contractor is a firm, any partner in that firm shall at any time become bankrupt, or shall have a receiving order, administration order or interim order made against him, or shall make any composition or scheme of arrangement with or for the benefit of his creditors, or shall make any conveyance of assignment for the benefit of his creditors, or shall purport to do so, or if in Scotland he shall become insolvent or bankrupt, or any application shall be made for sequestration of his estate, or a trust deed shall be granted by him for the benefit of his creditors; or

(b) if the Contractor being a company shall pass a resolution, or the court shall make an order, that the company shall be wound up (except for the purpose of amalgamation or reconstruction) or if an administrative receiver on behalf of a creditor shall be appointed, or if the court shall make an administration order, or if circumstances shall arise which entitle the court or a creditor to appoint an administrative receiver or which entitle the court to make a winding-up order or administration order,

provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to THO.

22. **Effect of Termination and Exit Plan**

22.1 The Contractor shall provide to THO within 3 months of the Effective Date an Exit Plan. Such Exit Plan shall set out the Exit Assistance to be provided by the Contractor and shall be reviewed by THO. The Contractor and THO shall discuss in good faith any changes to the Exit Plan required by THO. The Contractor shall maintain as current the Exit Plan and in particular shall ensure the Exit Plan is reviewed and updated (if required) after each Change. Furthermore, in detailing the Exit Assistance the Contractor shall pay due attention to the nature of the Services and in particular the fact that THO Clients may include vulnerable adults.

22.2 In advance of expiry of the Contract or otherwise upon THO informing the Contractor that it intends to terminate the Contract pursuant to Clause 3 (Duration) the Parties acknowledge and agree that the provisions of Schedule 6 (EXIT AND SERVICE TRANSFER ARRANGEMENTS) shall apply. The Contractor shall comply with the provisions of Schedule 6 (EXIT AND SERVICE TRANSFER ARRANGEMENTS) without undue delay.

23. **Notice**

Any notice required to be given in writing under the Contract shall be sent by email, facsimile or by first class post, addressed to the address of the party for which it is intended as shown on the signature page of the Contract or to such other address as may be notified in writing in accordance herewith for the purposes and shall be deemed to have been received in the case of an email or facsimile at 9.00 am on the next Working Day after transmission and in the case of a letter forty-eight hours after posting. In proving service by letter it shall be sufficient to show that the envelope containing the notice was properly addressed and stamped and duly posted.

24. **Waiver**

No failure or delay on the part of THO to exercise any of its rights under the Contract shall operate as a waiver thereof nor shall any single or partial exercise of any such right preclude any other or further

exercise thereof. Any waiver by THO of any breach by the Contractor of any of its obligations under the Contract shall not affect the rights of THO in the event of any further or additional breach or breaches.

25. **Validity**

If any provision of these Conditions is held by any competent court to be invalid or unenforceable in whole or in part the validity of the other provisions of these Conditions and the remainder of the provision in question shall not be affected thereby.

26. **Dispute**

Any dispute arising out of or in connection with the Contract including any question regarding its existence, validity or termination, shall be referred to and finally resolved by arbitration under the LCIA Rules, which Rules are deemed to be incorporated by reference into this Condition 26. The number of arbitrators shall be one. The seat, or legal place, of arbitration shall be London. The language to be used in the arbitral proceedings shall be English. Costs shall be in the award of the arbitrator.

27. **Observance of Legal Requirements**

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

28. **Rights of Third Parties**

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

29. **Freedom of Information**

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

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

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

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

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

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

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

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

- 29.4 On request from the Contractor, THO having notified the Contractor of any order, decision, enforcement or practice recommendation notice issued to it by the Information Commissioner or by any court or tribunal in relation to the disclosure of any exempted information or Contractor Confidential Information, THO shall bring such actions and appeals against the disclosure of such Information to the Information Tribunal or to such other courts and tribunals (having jurisdiction) as the Contractor may reasonably require except where THO has received a written opinion from counsel experienced in FOIA and / or EIR-related matters (such opinion to be provided to the Contractor upon request) that such an action or appeal has no reasonable prospect of success.
- 29.5 The Contractor will fully indemnify THO against any reasonable direct costs incurred by THO in seeking to maintain the withholding of information pursuant to Condition 29.4 provided that:
- 29.5.1 THO (acting in good faith) notifies the Contractor in response to the Contractor's request under Condition 29.4 that it has no wish to pursue any action or appeal for its own purposes and that but for the Contractor's request would disclose the information; and
- 29.5.2 THO will use reasonable endeavours to consult with the Contractor before incurring any such costs.
- 29.6 In the event that THO receives a Request for Information and requires the Contractor's assistance in obtaining such Information, the Contractor will respond to any related request for assistance from THO, at its own cost and within five (5) days of receiving the request for assistance.

30 Data Protection

- 30.1 For the purposes of this Condition 30, the terms "Data Controller", "Data Processor", "Data Subject", "Process" and "Processing" shall have the meaning prescribed under the DPA.
- 30.2 The Contractor shall (and shall ensure that all of the Staff) comply with any applicable registration requirements and notification requirements under the DPA and duly observe all obligations under the DPA which arise in connection with the Contract. The Contractor shall perform its obligations under this Contract in such a way as does not cause THO to breach any of THO's obligations under the DPA.
- 30.3 Notwithstanding the general obligation in Condition 30.2, where the Contractor and/or any Staff Process Personal Data as a Data Processor for THO the Contractor shall:
- (a) Process the Personal Data only in accordance with instructions from THO (which maybe specific instructions or instructions of a general nature) as set out in this Contract or as otherwise notified by THO;
 - (b) comply with the Law;
 - (c) Process the Personal Data only to the extent; and in such manner as is necessary for the provision of the Contractor's obligations under this Contract, or as is required by Law or any Regulatory Body;
 - (d) implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
 - (e) take reasonable steps to ensure the reliability of Staff who may have access to the Personal Data;
 - (f) obtain prior written consent from THO prior to any transfer of Personal Data to any sub-contractor for the provision of the Services;
 - (g) not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior Approval of THO which is to have come from THO's Senior Information Risk Officer (or equivalent) and, where THO so Approves such a transfer, comply with:
 - (i) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the DPA by providing an adequate level of protection to any Personal Data that is transferred; and
 - (ii) any reasonable instructions notified to it by THO;
 - (h) ensure that all Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Condition 30;

- (i) ensure that none of the Staff publish disclose or divulge any of the Personal Data to any third parties unless directed in writing to do so by THO;
- (j) not disclose Personal Data to any third parties in any circumstances other than with the written Approval of THO or in compliance with a legal obligation imposed upon THO;
- (k) notify THO (within five Working Days) if it receives:
 - (i) a request from a Data Subject to have access to that person's Personal Data; or
 - (ii) a complaint or request relating to THO's obligations under the DPA;
- (l) provide THO with full cooperation and assistance in relation to any complaint or request made, including by:
 - (i) providing THO with full details of the complaint or request;
 - (ii) complying with a subject access request within the relevant timescales set out in the DPA and in accordance with THO's instructions;
 - (iii) providing THO with any Personal Data it holds in relation to a Data Subject (within the timescales required by THO); and
 - (iv) providing THO with any other information requested by THO.
- (m) permit THO's representative or his/her nominee (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with Condition 9, the Contractor's Processing activities (and/or those of its agents, subsidiaries and sub-contractors) and comply with all reasonable requests or directions by THO to enable THO to verify and/or procure that the Contractor is in full compliance with its obligations under this Contract; and
- (n) provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by THO).

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

30.5 If the Contractor or any Staff fail to comply with this Condition 30, THO shall be entitled to require the Contractor to provide to THO (and/or its nominated third party) all information necessary to enable THO to assess the nature and severity of the breach. If so requested, the provisions of Condition 30.3(m) shall apply. THO shall be entitled to exercise any of its rights detailed in Condition 11 which shall be without prejudice to Condition 30.6.

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

32 Services Improvement

32.1 The Contractor shall have an ongoing obligation throughout the Term to identify new or potential improvements to the Services in accordance with this Condition 32. As part of this obligation the Contractor shall identify and report to the Customer:

- (a) new or potential improvements to the Services including the quality, responsiveness, procedures, likely performance mechanisms and customer support services in relation to the Services; and
- (b) changes in business processes and ways of working that would enable the Services to be delivered at lower cost and/or with greater benefits to the Customer or THO Clients.

32.2 The Contractor shall ensure that the information that it provides to the Customer shall be sufficient for the Customer to decide whether any improvement should be implemented. The Contractor shall provide any further information that the Customer requests.

33 Transparency obligations

33.1 The Parties acknowledge that

- (a) The content of this Contract including any changes to this Contract agreed from time to time, except for-

- (1) any information which is exempt from disclosure in accordance with the provisions of the FOIA, which shall be determined by the Customer; and
- (2) Commercially Sensitive Information; (together the "Transparency Information") are not Confidential Information.

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

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

33.4 If the Customer believes that publication of any element of the Transparency Information would be contrary to the public interest, the Customer shall be entitled to exclude such information from publication. The Customer acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, the Customer acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Contractor.

33.5 The Customer shall publish the Transparency Information in a format that assists the general public in understanding the relevance and completeness of the information being publish to ensure the public obtain a fair view on how the Contract is being performed, having regard to the context of the wider commercial relationship with the Contractor.

34 Governing Law

34.1 This Contract shall in all respects (including, without limitation, any contractual or non-contractual obligation) arising out of or in connection with it, its subject matter, or formation be governed by and construed in accordance with English law.

Schedule 1 – SERVICES

1. Introduction

- 1.1 The Contractor shall provide qualified and competent Staff in the execution of the Services detailed in this Schedule.
- 1.2 The Customer can, at its sole discretion, call off or cease individual Service Lines over the Term. The Customer shall provide a minimum of two (2) months' notice where it intends to consume additional Service Lines and no less than three (3) months' notice where it intends to cease any Service Lines provided by the Contractor.
- 1.3 Additional Service Lines ("**New Scope**") shall be added to this Contract in accordance with the Change Control Procedure. Where applicable, KPIs and Service Credits for New Scope will be proposed for agreement of the Contractor, such agreement not to be unreasonably withheld.
- 1.4 The Service performance measures for Service Line KPIs are detailed in Schedule 7 (SERVICE PERFORMANCE).

2. Service Requirements

The Service requirements are described further in this Schedule by numbered section below:

3.	Manner of Delivery of the Services by the Contractor
4.	Service Hours
5.	Service Lines
6.	Data Protection
7.	General Service Requirements
8.	Cultural Fit
9.	Performance Reporting

3. Manner of Delivery of the Services by the Contractor

- 3.1 The Contractor shall provide the Services to the THO Client as though it were the Customer.
- 3.2 The Contractor shall provide professional Services at all times.
- 3.3 The Contractor shall deliver the Services to the THO Client in a manner which promotes the ethos of the Customer.
- 3.4 When delivering the Service, the Contractor shall, and shall ensure that its Staff, comply with THO guidance as issued and amended from time to time.

4. Service Hours

- 4.1 The Contractor shall provide the Services between the hours of 09:15 – 17:15 Monday to Friday excluding public and bank holidays, the Service Day.

5. Service Line Requirements

5.1 Telephone Response

Service requirement ID	
Tech T001	Contractor shall receive and respond to outside calls from THO Clients on a 0300 (charities and not for profit organisations) telephone number
Tech T002	Contractor shall be capable of retrieving case records from the THO Case Management System (" CMS ") utilising caller IDs if and when THO deploys such functionality
Tech T003	Contractor shall record all incoming THO Client calls with an automated date stamp
Tech T004	Contractor shall transfer calls to the Customer at no additional call cost

Tech T005	Contractor shall capture call management data for performance management purposes
Tech T006	Contractor shall utilise call management dynamic call monitoring capability including call holding information
Tech T007	Contractor shall receive and capture messages from THO Clients out of hours
Proc T001	Contractor shall populate relevant CMS fields, using data from THO Client to record new registrations whilst engaging with THO Client
Proc T002	Contractor shall search CMS records to determine if the THO Client has a pre-existing case record whilst engaging with the THO Client
Proc T003	Where an existing case is identified, the Contractor shall transfer the THO Client to the Customer providing sufficient detail to facilitate the transferred call
Proc T004	Where the Customer does not pick up the transferred call, the Contractor will immediately email the THO team requesting a call back for the THO Client
Proc T005	Where the call refers to a new enquiry within THO jurisdiction but which has not been raised with the landlord as a formal complaint, the Contractor will record the registration, offer appropriate advice, and close the enquiry
Proc T006	The Contractor shall log all incoming calls in a Contractor created internal register including calls not destined for THO
Proc T007	Contractor will provide redirection details to THO Clients for calls where another agency or service may be more appropriate, the Contractor to make that determination using THO "Call Redirection Guidance" (see Customer Guide 7), and close the enquiry
Proc T008	Where the call refers to a new complaint within THO jurisdiction which has been raised with the social landlord as a formal complaint, the Contractor will record the registration, and transfer the call to the Customer duty line
Proc T009	Where all Customer staff are unavailable (e.g. due to a staff training event) the Contractor will provide a messaging service as and when requested
Ser S005	When responding to telephone calls, the Contractor shall do so within ten (10) seconds
Ser S020	The Contractor will handle non THO calls in an appropriate and professional manner
Ser S021	The Contractor will screen calls prior to submitting them to the Customer
Ser S032	The Contractor shall carry out monthly dip sampling compliance checks on no less than ten per cent (10%) of the total for each Service Period of telephone originated enquiries where the Contractor has recorded an entry in the Customer CMS. In carrying out these compliance checks, the Contractor will be assuring compliance against the following Service requirement IDs: <ul style="list-style-type: none"> - Proc T005 - Proc T007 - Proc T008
Tech T013	the Contractor shall be capable of receiving and sending telephone calls over a SIP connection
Tech T014	the Contractor shall be capable of providing dynamic call management information to the Customer such as call waiting times, number of calls answered and calls holding

5.2 Email Management

Service requirement ID	
Tech E009	Contractor will receive emails, using THO's Office 365 accounts (licences provided by THO), including attachments from THO Clients
Tech E010	Contractor will have system functionality compatible to work with 365 Outlook and Word configuration
Tech E011	Contractor will create folders and maintain document hierarchy as and when required
Tech E012	Contractor will routinely capture management information on email received such as number/type and date to meet the reporting obligations
Tech E017	Contractor will store and archive THO emails up to six (6) months
Proc E006	the Contractor will access and check the Customer's generic email box at least four (4) times daily; morning 09:15, midday at 12:00, afternoon at 2:00 and 4:00
Proc E007	the Contractor will determine if the emails in the Customer's generic email box are for an existing case or a new case registration

Proc E008	For instances of new cases, the Contractor will generate a case management record in the CMS
Proc E009	Where the email refers to an existing case, the Contractor will forward the email to the recorded caseworker and the CMS within twenty four (24) hours of receipt
Proc E010	The Contractor will acknowledge all THO Client enquiry emails within twenty four (24) hours of receipt
Proc E011	Where the email is not appropriate for the THO service, the Contractor will provide details of other agency or services using "Other Services Redirection Guidance" to the emailer when relevant
Proc E012	Where the email refers to a new complaint within the THO jurisdiction but which has not been raised with the landlord as a formal complaint, the Contractor will record the registration, give appropriate advice, and close the enquiry
Proc E013	The Contractor will take weekly back ups of emails processed on behalf of THO
Proc E014	The Contractor will attach all email attachments to the relevant case record on the CMS
Proc E015	Where the email refers to a new complaint within THO jurisdiction and which has been raised with the landlord as a formal complaint, the Contractor will record the registration and forward the email to the relevant team and the CMS
Ser S007	The Contractor will take weekly back ups of emails received
Ser S011	The Contractor will delete junk email within the Customer's generic email box every twenty-four (24) hours

5.3 Web Complaint Management

Service Requirement ID	
Tech W018	The Contractor will have internet access capability to launch THO CMS software
Proc W001	The Contractor will access and read all web forms received into the CMS twenty-four (24) hours in arrears and will "approve" or "reject" the case in the CMS based on the detail within the form
Proc W002	The Contractor will undertake a search of the CMS to determine if an existing case record is present
Proc W003	Where the webform relates to a pre-existing case, the Contractor will forward the webform to the recorded caseworker
Proc W004	For new cases, the Contractor will acknowledge receipt of the form to the complainant within twenty four (24) hours
Proc W005	Where a webform is received, but is identical to one already in the system the Contractor will "Void" the new form
Proc W006	Where the web form is not appropriate for THO service, the Contractor will provide details by email to the emailer of the agency or services using "Other Services Redirection Guidance" when relevant and will close the enquiry
Proc W007	Where the web form refers to a new complaint within THO jurisdiction but which has not been raised with the landlord as a formal complaint, the Contractor will record the registration on the CMS, issue appropriate advice and close the enquiry
Proc W008	Where the web form refers to a new complaint within THO jurisdiction and which has been raised with the landlord as a formal complaint, the Contractor will record the registration on the CMS, and forward the web form to the relevant team and the CMS

5.4 Stakeholder Survey Feedback

Service Requirement ID	
Ser S015	The Contractor shall undertake feedback surveys with Customer identified THO Clients promptly every fortnight
Ser S016	The Contractor shall input feedback results into CMS once collected

6. Data Protection Requirements

Service Requirement ID	
Ser S004	The Contractor shall operate the Service in line with the DPA and the obligations of the Contract
Ser S008	The Contractor shall undertake periodic DPA compliance checks on the Personal Data handling but at least twice annually
Ser S009	The Contractor shall provide the Customer with the outcome of such DPA compliance checks
Ser S010	The Contractor shall immediately advise the Customer of any potential or actual breach of the DPA in respect of Personal Data
Ser S022	The Contractor shall carry out a full external annual audit to ensure compliance with DPA on its processes and procedures in respect of handling of Personal Data
Ser S030	The Contractor shall comply with the DPA obligations of the contract in terms of recording, maintenance and disposal of Personal Data

7. General Service requirements

Service Requirement ID	
Ser S003	All Contractor Staff assigned to the Services must be assigned to handle the full suite of requirements
Ser S012	The Contractor shall be responsible for identifying continuous improvement opportunities and advising the Customer as they arise
Ser S013	The Contractor shall work collaboratively with the Customer to ensure that all Staff carrying out the Service are adequately trained on Customer processes and procedures
Ser S014	The Contractor shall ensure that all Staff are adequately trained on its own functionality to enable them deliver the Services
Ser S017	On exit, the Contractor shall provide all reasonable Exit Assistance to the Customer and /or a Replacement Contractor to ensure continuity of the Services
Ser S018	The Contractor shall maintain all guidance notes and Customer supplied material in a useable condition and shall ensure that such material is kept up to date and relevant at all times to deliver the Services
Ser S020	The Contractor shall ensure it can scale the Services to include additional Service Lines if required, such as, but not limited to, letter receipt management and document scanning
Ser S023	The Contractor shall, at all times, carry out the Services with the due care and attention of a responsible Contractor in the market sector
Ser S024	When requested to do so, the Contractor shall, within five (5) Working Days, provide its Business Continuity and Disaster Recovery Plan to the Customer
Ser S026	The Contractor shall produce an Exit Plan for the approval of the Customer within three (3) months of the Effective Date
Ser S027	The Contractor shall produce and keep updated a service implementation plan in accordance with Schedule 8 (SERVICE IMPLEMENTATION PLAN) for the agreement of the Customer. The plan shall as a minimum include milestones /acceptance criteria and go live readiness criteria
Ser S029	The Contractor shall record in the CMS any redirection of service advice it has provided to the THO Client. The Contractor will do this by choosing from the other agency options within the CMS
Ser S031	The Contractor shall work collaboratively with the Customer to work to ensure that the Services are provided within the Contract Cap for the Term

8. Cultural Fit

Service Requirement ID	
Cul C001	The Contractor shall represent the Customer appropriately at all times when delivering the Services
Cul C002	The Contractor shall ensure that its Staff shall have the necessary skills to deliver a sensitive service to THO Client

Cul C003	The Contractor shall work collaboratively with the Customer at all times
Cul C004	The Contractor shall, and shall ensure that its Staff delivering the Service participate in "one team" events with the Customer including Customer delivered/organised training sessions as required
Cul C005	The Contractor shall operate the service fairly and impartially so that THO Clients can respond to Customer survey feedback questions "Did we treat you well?" and "Did we help?" in a positive manner
Cul C006	The Contractor shall deliver the Service in a manner which demonstrates an awareness and understanding of the THO Scheme including the Customer's jurisdiction

9. Performance reporting

Service Requirement ID	
Per P001	The Contractor shall report monthly on: all incoming calls logged in the Contractor created internal register date and time received, incoming number, response time, talk time, hold time, call time, end cause (e.g. completed or transferred), number transferred to (if transferred)
Per P002	The Contractor shall report monthly on all emails received: date, time, the number of emails received and the responded to
Per P003	The Contractor shall report monthly on adherence to the target service level for email response (Proc E010), the number within the target and the number that fell outside the target
Per P004	The Contractor shall report monthly on all web forms received, date, time, the number of emails received and the number responded to
Per P007	The Contractor shall report monthly on adherence to the target service level for web complaint management (Proc W001) the number managed within the target and the number that fell outside the target
Per P008	The Contractor shall send a monthly data extract in a single file to the Customer covering: Service Requirement IDs <ul style="list-style-type: none"> • Per P001 • Per P002 • Per P003 • Per P004
Per P009	The Contractor and the Customer shall agree the date and format of the report to meet requirement Per P008 within ten (10) Working Days of the Effective Date
Per P010	The Contractor shall provide the Performance Monitoring Report reflecting adherence to all KPIs within five (5) Working Days of the end of the Service Period
Per P011	The Contractor and the Customer shall agree the format of the report to meet requirement P010 within ten (10) Working Days of the Effective Date
Per P012	The Contractor shall perform monthly compliance dip sampling checks on its adherence to Customer issued guidance and procedures relating to the Telephone Response Service Line
Per P013	The Contractor shall capture Service Charges spend for reporting purposes against the Contract Cap
Per P014	The Contractor shall report monthly in the Performance Monitoring Report on the amount of Service Charges paid and forecasted over the contract period against the Contract Cap
Per P016	In respect of Ser S032, where any compliance failure(s) has occurred, the Contractor shall issue a Compliance Report no later than five (5) Working Days of the end of the Service Period on any compliance failures in the Service Period
Per P017	The Compliance Report shall, as a minimum, contain the following details: the process requirement unique identifier e.g. Proc T007, the case record number from the CMS, the date of the compliance failure, the likely impact of the compliance failure on the THO Client or the THO staff, any remedial action the Contractor proposes to take for the agreement of the Customer to avoid a reoccurrence of the failure.

Schedule 2 – CHARGES

1. Introduction

1.1. This Schedule sets out:

- (a) the Service Line costs per unit which the Customer shall pay to the Contractor over the Term. For the avoidance of doubt, no provision for indexation is included in the contract pricing structure;
- (b) the Service Credits which adhere to KPI service failures in accordance with Schedule 7 (SERVICE PERFORMANCE); and
- (c) the travel and subsistence rates that apply for the contract duration in accordance with internal policy. Where that policy changes, the Contractor will be informed and any proposed amendment agreed between the Parties.

2. Contract Value

2.1. The contract value is capped at the maximum whole life value of £160,000 (the "**Contract Cap**"). Reaching the Contract Cap will automatically bring the contract to an end whether or not the Expiry Date has been achieved. Early elective termination as provided for in Clause 3.1.2 is not affected by this provision.

3. Charges for Service Lines

3.1. The Service Charges as they relate to the following Service Lines are based on a cost per unit. The monthly Service Charge will be a variable charge per the level of consumption of the Service. The monthly Service Charge will be the total of all costs for each Service Line consumed. The Contractor will provide details to the Customer of the separate Service Line costs within the Service Charge.

Service Line	Cost per unit
Phone response Service	£2.60
Email Management Service	£1.38
Web Complaint Management Service	£2.20
Stakeholder Survey Feedback Service	£2.48

- 3.2. All Contractor costs are contained within the Service Line cost per unit. No additional charges other than pre-agreed travel and subsistence costs will be payable.
- 3.3. There is no automatic right for the Contractor to unilaterally amend the costs per unit in any circumstance.
- 3.4. Any adjustment to the costs per unit must be via a Change in accordance with the Change Control Procedure.
- 3.5. Payment of all Service Charges under this Schedule are subject to the issuance of a valid and payable invoice including provision of supporting evidence for each Service Line calculation.
- 3.6. Where Service Credits are applicable to a Service Period, the calculations will be provided by the Contractor to the Customer.
- 3.7. Once reconciled, the Customer will offset the value of the agreed Service Credits against the Service Charges for the succeeding Service Period.

4. Service Credits

- 4.1. Service Points as determined by Schedule 7 (SERVICE PERFORMANCE) shall be converted to monetary values per the following table based on the monthly costs either per Service Line or on the overall monthly Service Charge depending on the KPI failure.
- 4.2. Service Credits in respect of KPI6 will not be applied in reduction of Service Charges for a period of three (3) Service Periods from the Effective Date "the Grace Period". Following the end of the Grace Period, Service Credits will be applied as provided for in Schedule 7 and this Schedule. During the Grace Period, the Service

PROTECT COMMERCIAL

Points associated with any failure of KPI6 will continue to be calculated and reported in the Performance Monitoring Report as though they applied.

No	KPI Title	Measurement frequency	Severity Level	Service Points	% reduction of Service Charge	% reduction in Service Line charge
KPI1	Service Availability (Service Day)	Monthly	Target Performance 99.5% Minor Failure: 98.5% - 99.4% Serious Failure: 95.2% - 98.4% Severe Failure: below 95.1%	0 1 2 3	 1% 3% 5%	
KPI2	Data Protection Violations	Monthly	Target Performance: 0 in any 12 month rolling period Severe Failure: 1	0 3	 25%	
KPI3	Number of Calls Answered during Service hours (Service Line)	Monthly but data is captured daily	Target Performance; 98.1% of calls received are answered Minor Failure: 97.1% - 98.0% Serious Failure: 96.1% - 97.0% Severe Failure below 96.0%	0 1 2 3		3% 5% 10%
KPI4	Service Satisfaction Survey/Service Quality	Every 6 months or more frequently if required	Target performance: 100%- 90% satisfactory response to survey questions Minor Failure:80% - 89.99% Serious Failure 79.99% - 70% Severe Failure: below 69.99%	0 1 2 3	 3% 5% 10%	
KPI5	Speed of Call Answering (Service Line)	Monthly but data is captured daily	Target Performance; 90.0%+ of calls answered are answered within 10 seconds Minor Failure: 80.0% – 89.9% of calls answered are answered within 10 seconds Serious Failure: 70.0% 79.9% of calls answered are answered within 10 seconds Severe Failure: Below 70% of calls answered are answered within 10 seconds	0 1 2 3		3% 5% 10%
KPI6	Adherence to THO guidance & Procedures for Telephone Response Service Line	Monthly	Target Performance: 1 process or procedural failure Minor Failure: 2-3 Serious Failure: 4-5 Severe Failure: 6+	0 1 2 3	 3% 5% 10%	

4.3. Service Credits for each Service Line KPI failure are calculated on each Service Line Service Charge for the Service Period.

4.4. Service Credits for KPI failures not covered by paragraph 4.3 above are calculated on the Service Charges.

- 4.5. The maximum Service Credits which shall be applied in any one Service Period (the "**KPI Cap**") shall not exceed twenty five per cent (25%) of the total Service Charge for that Service Period.
- 4.6. Service Credits shall be shown as a deduction from the amount due from the Customer to the Contractor in the invoice for the Service Period immediately succeeding the Service Period to which they relate.

5. Travel and Subsistence

- 5.1. All Services will be carried out at the Contractor's Premises.
- 5.2. Where the Contractor attends the Customer premises, it is entitled to reasonable reimbursement of expenses when travel occurs from outside the M25. Reimbursement will be at standard travel rates. Any overnight expenses will be compensated on the following rates:
 - £110 per night in London; and
 - £85.00 per night outside the M25.
- 5.3. The Contractor must provide valid receipts to support payment.

6. Invoicing

- 6.1 Invoicing must be submitted to invoices@housing-ombudsman.org.uk. The Order number must be quoted including sufficient detail to enable the invoice be paid. Payment terms are thirty (30) days in arrears.

Schedule 3 – CHANGE CONTROL

1. Change Control Principles

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

2. Contract Change Control Procedure

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

Annex A – CHANGE CONTROL PROCEDURES

Change control request and impact assessment Pro-forma

PART A

CHANGE REQUEST FORM

Title Of the Change:

Unique ID

Description of the Change

Raised by:	
Date	

Reason for the Change

Any other issues or considerations

PART B IMPACT ASSESSMENT

Title of Change

Unique ID

Section 1 – Impact details

Section 2 – Contract change details

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

Section 3 – Agreement of the Parties

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

Schedule 4 – KEY PERSONNEL

1. Introduction

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

Role Description	Contractor Personnel
Service Manager	Steven Duffy
Account Manager	Maureen Stanton

1.2 The Contractor shall ensure that the Key Personnel fulfil the roles set out above at all times during the Term.

1.3 The Contractor shall provide a minimum of three (3) months' notice to the Customer in the event of a change to the Key Personnel.

1.4 Changes to this Schedule which must be managed through the Change Control Procedure and executed in a timely fashion.

Schedule 5 – CUSTOMER RESPONSIBILITIES

1. Introduction

1.1 This Schedule details responsibilities of the Customer that are additional to those already contained in the elsewhere in this Contract.

2. Customer General Responsibilities

2.1 The Customer shall ensure that the Contractor is kept up to date with any THO policy changes or changes in internal procedures which will affect the Services.

3. Customer Specific Responsibilities

3.1 The Customer shall work with the Contractor to ensure that Staff can carry out the Services and where necessary from time to time provide training sessions to Staff on the Customer premises.

3.2 The Customer shall issue the Contractor with no less than the minimum notices in respect of additions or deletions to/from the Service Lines as further outlined in Schedule 1 (SERVICES).

3.3 Where undertaken, the Customer shall carry out the Service Satisfaction Survey in a fair and impartial manner.

Schedule 6 – EXIT AND SERVICE TRANSFER ARRANGEMENTS

1. Introduction

- 1.1. This Schedule describes the duties and responsibilities of the Contractor leading up and covering the exit from this Contract and the transfer of Replacement Services to a Replacement Contractor.

2. Objectives

- 2.1. The objectives of this Schedule are to:

- ensure a smooth transition of Replacement Services from the Contractor to a Replacement Contractor; and
- ensure that all relevant assets are transferred.

3. General

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

4. Asset Treatment

- 4.1. On request, the Contractor shall return to the Customer all Customer provided materials including archived material either provided by Customer to the Contractor or developed for the Customer by the Contractor.

Schedule 7 – SERVICE PERFORMANCE

1. Introduction

1.1 This Schedule describes:

- scope of the Services to be provided by the Contractor;
- mechanisms for objective measurement of the Services; and
- consequences of Service failures.

1.2 The Services provide THO Clients with a front end contact point for social housing-related matters.

1.3 The Services are intended to offer THO Clients a simple and impartial means of engaging the services of THO while enabling THO to concentrate its expertise on landlord/tenant formal dispute resolution. Good customer service is a cornerstone of THO's social obligations and the Contractor plays a key role in representing THO in an efficient and professional manner.

2. Definitions pertaining to this Schedule and its Annexes

“Available”	the Services shall be Available when: (a) THO Clients are able to access and utilise all the functions of the Contractor system and/or the Services; and (b) the Contractor is able to process the Customer’s data and to provide any required reports within the timescales set out in paragraph 3 below (as measured on a 24 x 7 basis)
“Performance Review Meeting”	The regular interaction between the Parties to manage and review the Contractor’s Service and financial performance under this Contract as further described in Paragraph 1 of Part B to this Schedule 7
“Repeat KPI failure”	Has the meaning given in Paragraph 3 of Part A
“Service Availability”	Has the meaning given in Paragraph 1 of Annex A Part B
“Service Day”	Has the meaning given to it in paragraph 4 of Schedule 1 (SERVICES)
“Service Downtime”	Any period of time during which any of the Services are not Available
“Target Performance Level”	Has the meaning given in Annex A Part A

Part A: PERFORMANCE INDICATORS AND SERVICE CREDITS

1. Performance Indicators

- 1.1 Annex A sets out the KPIs which the Parties have agreed shall be used to measure the performance of the Services by the Contractor.
- 1.2 The Contractor shall monitor its performance against each KPI and shall send the Customer the Performance Management Report.
- 1.3 Service Points, and therefore Service Credits, shall accrue for any KPI failure and shall be calculated in accordance with Paragraphs 1-5 of Annex A Part B.

2. Service Points

- 2.1 If the level of performance of the Contractor during a Service Period achieves the Target Performance Level in respect of a KPI, no Service Points shall accrue to the Contractor in respect of that KPI Indicator.
- 2.2 If the level of performance of the Contractor during a Service Period is below the Target Performance Level in respect of a KPI, Service Points shall accrue to the Contractor in respect of that KPI as set out in Annex A Part A.
- 2.3 The number of Service Points that shall accrue to the Contractor in respect of a KPI failure shall be the applicable number of points dependant on the classification of the failure i.e. Minor, Serious or Severe unless the KPI failure is a Repeat KPI failure when the provisions of Paragraph 3 below shall apply.

3. Repeat KPI Failures

- 3.1 The KPI Cap provisions do not apply to Repeat KPI Failures.
- 3.2 If a KPI failure occurs in respect of the same KPI in any two (2) consecutive Service Periods, the second any subsequent such KPI failure shall be a "**Repeat KPI Failure**".
- 3.3 The number of Service Points that shall accrue to the Contractor in respect of a KPI failure that is a Repeat KPI Failure shall be calculated as follows:

SP = P x 2 where

SP = the number of Service Points that shall accrue for the Repeat KPI Failure; and

P = the applicable number of Service Points for that KPI failure as set out in Annex A depending on whether the Repeat KPI Failure is a Minor/Serious/Severe failure.

Worked example based on the following Service Points for "Service Availability" within a Service Day

Service Availability Severity Levels – Service Day	Service Points	Potential Monthly downtime
Target Performance Level 99.5%	0	0 to 49 minutes
Minor Failure 98.5% - 99.4%	1	50 minutes to 2.5 hours
Serious Failure 95.2% - 98.4%	2	2.5 hours to 8 hours
Severe Failure below 95.1%	3	Over 8 hours

Example 1

If the Contractor loses its phone system during a Service Day and cannot make or take phone calls, an accepted Force Majeure event excepting, for one (1) hour (whether as a one off incident or cumulative) in a Service Period it will incur a Minor KPI failure for Service Availability in that Service Period (e.g. April) and thus accrue one (1) Service Point.

If in the subsequent Service Period (e.g. May) it loses system connectivity, an accepted Force Majeure event excepting, and it can't access or send emails for eight (8) hours in any one day or cumulatively across the Service Period, it will incur a Severe KPI failure and accordingly accrue three (3) Service Points. However, as the failure is a Repeat Failure this amount is doubled and so the Contractor will incur six (6) Service Points; SP= 3x2 for the month of May.

Example 2

Using the scenarios above, if the Contractor incurs a Severe KPI failure in Service Availability KPI in April it will accrue three (3) Service Points. If in May it incurs a Minor KPI failure in the same KPI it will accrue one (1) Service Point but that will be doubled to 2 Service Points as it will represent a Repeat Service Failure of the same KPI.

4. Service Credits

- 4.1 Schedule 2 (CHARGES) sets out the mechanism by which Service Points shall be converted into Service Credit values.
- 4.2 The Customer shall use the Performance Monitoring Reports amongst other things to verify the calculations and accuracy of the Service Credits notified to it by the Contractor for each applying Service Period.

Part B: PERFORMANCE MONITORING

1. Performance Monitoring and Review

- 1.1 Within five (5) Working Days of the end of each Service Period the Contractor shall provide a report to the Customer which summarises the performance by the Contractor against each of the KPIs (the "**Performance Monitoring Report**").
- 1.2 The Performance Monitoring Report shall be in such format as agreed between the Parties from time to time and contain as a minimum, the following information in respect of each Service Period just ended:
 - a) for each KPI the **actual** performance achieved over the Service Period and that achieved over the previous three (3) Service Periods;
 - b) a summary of all performance failures which occurred during the Service Period in review;
 - c) the severity level of each KPI failure which occurred during the Service Period;
 - d) which failures remain outstanding and progress made towards resolving them;
 - e) for any KPI failure where the severity level is "Severe" what action is being taken to reduce or mitigate a reoccurrence of the failure;
 - f) the number of Service Points the Contractor has calculated for each failure;
 - g) the value of the Service Credits to be applied per KPI;
 - h) actual Service Charges paid to the Contractor and any forecasted monthly Service Charges by Service Line against the Contract Cap;
 - i) relevant particulars of any aspects of the Contractor's performance which fail to meet the requirements of the Contract;
 - j) such other details as the Customer may reasonably require from time to time;

Information in respect of previous Service Periods:

- k) a rolling total of the number of performance failures that have occurred over the past six (6) months;
- l) the amount of Service Credits that have been incurred by the Contractor over the past six (6) Service Periods; and
- m) the cumulative financial Service Charges paid to the Contractor since the Effective Date.

Performance Review meetings

- 1.3 The Parties shall engage on a monthly basis to review the Performance Monitoring Reports within five (5) Working Days of the issuance of the report.
- 1.4 The Contractor shall provide to the Customer such supporting documentation as the Customer may reasonably require to verify the level of the Contractor's performance which shall include the calculation of Service Credits for any Service Period. If the supporting documentation provided reveals any discrepancies between the information provided in the Performance Monitoring Report(s) and the actual KPI performance which results in Service Points becoming due and payable then the Contractor shall comply with Condition 13.7 and shall promptly correct any errors in its reporting so as to ensure that the Performance Monitoring Reports are accurate.
- 1.5 The Parties shall jointly review the actual and forecasted Service Charges against the Contract Cap and agree any action required to maintain the integrity of the Contract Cap over the contract period.

Annex A Part A: KEY PERFORMANCE INDICATORS

No	KPI Title	Definition	Measurement frequency	Severity Level	Service Points
KPI1	Service Availability Service Day	See Paragraph 1 of Part 2 of this Annex	Monthly	Target Performance 99.5% Minor Failure: 98.5% - 99.4% Serious Failure: 95.2% - 98.4% Severe Failure: below 95.1%	0 1 2 3
KPI2	Data Protection Violations	See Paragraph 2 of Part 2 to this Annex	Monthly	Target Performance: 0 in any 12 month rolling period Serious failure: 1 Severe Failure: 2	0 2 3
KPI3	Number of Calls Answered during Service hours	See Paragraph 3 of Part 2 to this Annex	monthly	Target Performance; 98.1% of calls received are answered Minor Failure: 97.1% - 98.0% Serious Failure: 96.1% - 97.0% Severe Failure below 96.0%	0 1 2 3
KPI4	Service Satisfaction Survey/Service Quality	See Paragraph 4 of Part 2 to this Annex	Every 6 months or more frequently if required	Target performance: 100%- 80% satisfactory response to survey questions Minor Failure: 79% - 70% Serious Failure 69% - 60% Severe Failure: below 59%	0 1 2 3
KPI5	Speed of Call Answering	See Paragraph 5 of Part 2 to this Annex	Monthly	Target Performance; 90.0%+ of calls answered are answered within 10 seconds Minor Failure: 80.0% – 89.9% of calls answered are answered within 10 seconds Serious Failure: 70.0% 79.9% of calls answered are answered within 10 seconds Severe Failure: Below 70% of calls answered are answered within 10 seconds	0 1 2 3
KPI6	Adherence to THO guidance & Procedures for Telephone Response Service Line	See Paragraph 6 of Part 2 to this Annex	Monthly	Target Performance: 1 process or procedural failure Minor Failure: 2-3 Serious Failure: 4-5 Severe Failure: 6+	0 1 2 3

Annex A Part B: KPI DEFINITIONS

1. Service Availability (KPI1)

1.1 Service Availability shall be measured as a percentage of the total time in a Service Period that Contractor provides the Service and the Service is Available in a Service Period.

$$\text{Service Availability \%} = \frac{(M-S)}{M} \times 100$$

M

Where:

M = total number of minutes in a standard Service Day x number of days in the Service Period
 S = total number of minutes of Service downtime in the Service Period

1.2 Service Points shall accrue on this KPI if any Service Downtime occurs which triggers a KPI and falls outside a recognised and accepted Force Majeure event.

2. Data Protection Violations (KPI2)

2.1 Data Protection violations are any Personal Data infractions which are contrary to the Contractor's obligations under the DPA and the provisions of this Contract.

2.2 Service Points shall accrue on this KPI if **any** data protection infraction occurs in any rolling 12-month period. If more than one (1) infraction occurs each and every subsequent one will be treated as a Repeat "Severe" KPI failure whether or not occurring consecutively.

3. Number of calls answered during a Service Period (KPI3)

3.1 Calls are answered during a Service Period where the Contractor has responded to 0300 calls from the public for each Service Day within the Service Period. Calls are missed by the Contractor when not answered and are abandoned by the caller on each Service Day in the Service Period. For the purpose of this KPI, calls received that ring for less than two consecutive rings are excluded for calculation purposes. The calculation shall be as follows:

$$\frac{N - NA}{N} \times 100$$

Where:

N = total number of calls for each Service Day in the Service Period less
 NA = total number of missed calls for each Service Day in the Service Period

4. Service Satisfaction Surveys (KPI4)

4.1 Excellent customer service is important to the Customer. The Customer, may at its discretion, invoke a bi-annual Service Satisfaction Survey, or more frequently if it deems it necessary, to gauge in-house staff and external THO Client satisfaction with the Service (the "**Service Satisfaction Survey**"). The Customer may elect to target external and internal survey candidates with different survey questions. The sample group in either survey category will be no more than fifty (50) and no fewer than twenty five (25) individual survey candidates with a valid engagement percentage (%) of no less than fifty percent (50%) for each sample group.

4.2 The questions posed in the Service Satisfaction Survey(s) will be discussed and agreed with the Contractor prior to issue but will focus on the quality of the Service delivered by the Contractor.

5. Speed of call answering (KPI5)

5.1 Calls answered by the Contractor will be regarded as failing the KPI where they are answered outside the Target Performance Level. Calls not answered are the subject of KPI3 and are not counted for calculation purposes within this KPI. The Contractor will provide monthly, electronically captured evidence, to the Customer of its performance against this KPI.

6. Adherence to THO Processes and Procedures: Telephone Response Service Line (KPI6)

6.1 The Contractor will be regarded as failing this KPI where more than one procedural failure has occurred in the monthly ten per cent (10%) sample taken of all incoming telephone enquiries which are recorded in the Customer's CMS (Service requirement ID Ser S032). The scope of the monthly sample shall cover Service Requirement IDs:

- Proc T005;
- Proc T007; and
- Proc T008.

6.2 The ten per cent (10%) sample of the CMS entries checked shall be spread across the Service Requirement IDs above.

7. Changes to KPIs

7.1 The Customer reserves the right to amend or introduce KPIs for Service Lines. The Contractor will be given no less than one (1) month's notice of the introduction of a KPI or a change to an existing KPI.

Schedule 8 – SERVICE IMPLEMENTATION PLAN

1. Introduction

- 1.1 The Contractor shall provision the Service in accordance with the Service Implementation Plan below.
- 1.2 The Contractor shall update the Service Implementation Plan for New Scope and submit the revised Service Implementation Plan to the Customer for approval



THO Call Answering
Enquiry Service Imple

Schedule 9 – TUPE

1. Definitions

1.1 The following definitions shall apply to this Schedule:

"Contractor Personnel" means the individuals engaged or employed by the Contractor, its Sub-Contractors and any other person in the provision of the Services or the performance of the Contractor's obligations under this Contract from time to time;

"Employees" means the individuals named in Annex A to this Schedule 9 (TUPE) and any other individual whose contract of employment has effect from and after the Transfer Date, by virtue of the operation of TUPE, as if originally made between such person and the Contractor or a Sub-Contractor of the Contractor;

"Exit Transfer" means the cessation of the provision of the Services or part of the Services by the Contractor or any of its Sub-Contractor(s) and the transfer of the Services (in whole or in part) to the Customer, a Replacement Contractor and/or any Sub-Contractor of the Replacement Contractor;

"Exit Transfer Date" means the date of an Exit Transfer;

"Previous Contractor" means On Net Communications;

"Staffing Information" in relation to an individual means details of:

- (a) his/her age, date of commencement of employment or engagement and gender;
- (b) whether he/she is employed, a self-employed contractor or a consultant, an agency worker or otherwise;
- (c) the identity of the employer or relevant contracting party;
- (d) his/her relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) his/her wages, salary, commission, bonuses, and incentive and profit-sharing arrangements;
- (f) all collective bargaining and other agreements with trade unions
- (g) other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to him/her;
- (h) any outstanding or anticipated contractual, statutory or other liabilities in respect of such individual (including in respect of personal injury claims);
- (i) whether the individual is on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (j) his/her proportion of time spent in the provision of the Services;
- (k) any disciplinary procedure taken against or grievance procedure taken by the individual within the two (2) previous years;
- (l) any other "employee liability information" as such term is defined in regulation 11 of TUPE;
- (m) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (n) such other information as the Customer reasonably requests.

"Transfer" means the transfer of responsibility for the provision of the Services from the Previous Contractor to the Contractor;

"Transfer Date" means the *[insert]*;

"Transferring Employee" means an individual whose contract of employment has effect from and after the Exit Transfer Date, by virtue of the operation of TUPE, as if originally made between such person and the Customer, Replacement Contractor or Sub-Contractor of a Replacement Contractor (as relevant); and

"TUPE" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended from time to time).

2. Entry Provisions

Relevant Transfer

- 2.1 The Customer and the Contractor agree that the Transfer will give rise to a "relevant transfer" within the meaning of TUPE and that the respective contracts of employment between the Previous Contractor and the Employees shall have effect from and after the Transfer Date as if originally made between the Contractor or a Sub-Contractor of the Contractor (as relevant) and the Employees (save insofar as they relate to provisions of an occupational pension scheme relating to benefits for old age, invalidity or survivors within Regulation 10 of TUPE).

Emoluments

- 2.2 All wages, salaries, bonus and commission payments, contributions to pension schemes, entitlement to holiday pay and any other emoluments (whether monetary or otherwise), tax and national insurance contributions relating to the Employees shall be paid or borne by the Contractor or a relevant Sub-Contractor of the Contractor from the Transfer Date. The Customer shall use its reasonable endeavours to procure that the Previous Contractor pays or bears all wages, salaries, bonus and commission payments, contributions to pension schemes, entitlement to holiday pay and any other emoluments (whether monetary or otherwise), tax and national insurance contributions relating to the Employees before the Transfer Date.

Compliance and Indemnities

- 2.3 As soon as reasonably practicable after the date of this Contract, the Contractor shall, and shall procure that each of its Sub-Contractors shall, provide the Customer and, at the Customer's direction, the Previous Contractor with such information as is necessary to enable the Previous Contractor to comply with its obligations under Regulation 13 of TUPE. The Customer shall use its reasonable endeavours to procure that the Previous Contractor shall comply with its obligations under Regulation 13 of TUPE.
- 2.4 The Contractor shall indemnify and keep indemnified the Customer against all and any costs, expenses, liabilities, damages and losses arising out of or in connection with any claim, demand, action or proceeding which is made or brought:
- (a) by or on behalf of any Employee in relation to any act or omission of the Contractor and any of its Sub-Contractors occurring or arising before, on or after the Transfer Date and/or in relation to any events or circumstances relating to the employment or termination of employment of any Employee occurring or arising on or after the Transfer Date;
 - (b) in relation to any failure or alleged failure of the Contractor and/or any of its Sub-Contractor(s) to comply with its or their obligations under Regulation 13 of TUPE; or
 - (c) in relation to any substantial change made or proposed by the Contractor or any of its Sub-Contractor(s) in the working conditions of any of the Employees, or any individual who would have been an Employee but whose employment terminated prior to the Transfer Date, where that change is to the detriment of such Employee(s) or such individual(s).

3. Employee Information

Relevant Transfer

- 3.1 The Contractor:

- (a) shall, within seven (7) days of the earliest of:
 - (i) receipt of notification from the Customer of an Exit Transfer, an intended Exit Transfer or an intended invitation to tender for part or all of the Services;
 - (ii) receipt or the giving of notice of termination of this Contract (or part thereof);
 - (iii) the date which is six (6) months before this Contract expires; or
 - (iv) receipt of a written request from the Customer at any time

provide (in a suitably anonymised format so as to comply with the DPA) to the Customer a list of named Contractor Personnel as at the date that the list is prepared ("**Provisional List**") and the Staffing Information in relation to each named person;

- (b) shall, no less than twenty eight (28) days prior to the Exit Transfer Date, update and provide to the Customer the updated Provisional List ("**Final List**") and identify on the Final List those individuals who are Transferring Employees;
- (c) warrants that the Provisional List and Final List and the Staffing Information shall be accurate and complete in all material aspects; and
- (d) without prejudice to the provisions in this paragraph 3.1, the Contractor shall notify the Customer in writing as soon as reasonably practicable of any changes to the Provisional and Final Lists and Staffing Information.

3.2 The Customer shall be entitled to use and disclose all information provided to it pursuant to paragraphs 3 and 4.3 to persons tendering for some or all of the Services and to any Replacement Contractor and/or Sub-Contractor of a Replacement Contractor. The Customer shall be entitled to rely upon and warrant the accuracy of any such information to any Replacement Contractor and Sub-Contractor of a Replacement Contractor, and the Contractor shall indemnify and keep indemnified the Customer against all and any costs, expenses, liabilities, damages and losses arising out of or in connection with any failure by the Contractor to provide accurate information under this paragraph.

3.3 From the date of the earliest event referred to in paragraph 3.1(a), the Contractor shall not, and shall procure that its Sub-Contractors shall not, assign any person to the provision of the Services who is not listed on the Provisional List and shall not without the approval of the Customer (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Contractor Personnel other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose or permit any material changes to the terms and conditions of employment or engagement of any Contractor Personnel (including any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Contractor Personnel save for fulfilling assignments and projects previously scheduled and agreed with the Customer;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Provisional List;
- (e) increase or reduce the total number of Contractor Personnel, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Provisional List save by due disciplinary process.

3.4 The Contractor shall promptly notify, and procure that each of its Sub-Contractors shall promptly notify, the Customer or, at the direction of the Customer, any Replacement Contractor of any notice to terminate employment given by the Contractor or its Sub-Contractors or received from any persons listed on the Provisional List regardless of when such notice takes effect.

- 3.5 Without prejudice to the provisions set out above, during the term of this Contract, the Contractor shall provide, and shall procure that its Sub-Contractors shall provide, to the Customer any information that the Customer may reasonably require relating to the manner in which the Services are organised, including:
- (a) the numbers of Contractor Personnel engaged in providing the Services;
 - (b) the percentage of time spent by each Contractor Personnel engaged in providing the Services; and
 - (c) a description of the nature of the work undertaken by each Contractor Personnel.

4. Exit Provisions

4.1 The Parties envisage that:

- (a) the identity of the provider of the Services (or any part of the Services) may change in the event of an Exit Transfer; and
- (b) if an Exit Transfer is a "relevant transfer" within the meaning of TUPE, the respective contracts of employment between the Contractor or its Sub-Contractors and the Transferring Employees shall have effect from and after the Exit Transfer Date as if originally made between the Replacement Contractor or its Sub-Contractors (as relevant) and the Transferring Employees (save insofar as they relate to provisions of an occupational pension scheme relating to benefits for old age, invalidity or survivors within Regulation 10 of TUPE).

Emoluments

- 4.2 All wages, salaries, bonus and commission payments, contributions to pension schemes, entitlement to holiday pay and any other emoluments (whether monetary or otherwise), tax and national insurance contributions relating to the Transferring Employees shall be paid or borne by the Contractor (or its relevant Sub-Contractor) in relation to the period after the Transfer Date up to and including the Exit Transfer Date (and the Contractor shall procure such payment by any Sub-Contractor).
- 4.3 At least twenty eight (28) days before the Exit Transfer Date, the Contractor shall provide to the Customer, any Replacement Contractor and any Sub-Contractor of the Replacement Contractor (as relevant) in respect of each Transferring Employee, their:

- (a) pay slip data for the most recent month;
- (b) cumulative pay for tax and pension purposes;
- (c) cumulative tax paid;
- (d) tax code;
- (e) voluntary deductions from pay; and
- (f) bank or building society account details for payroll purposes.

Compliance and Indemnities

4.4 The Contractor shall and, where relevant, shall procure that its Sub-Contractors shall:

- (a) comply with its or their obligations under Regulation 11 of TUPE and to inform and consult the Transferring Employees pursuant to Regulation 13 of TUPE;
- (b) use reasonable endeavours to agree with the Customer, Replacement Contractor and any Sub-Contractors of the Replacement Contractor (as relevant), and deliver to the Transferring Employees prior to the Exit Transfer Date, a suitable joint statement regarding the proposed transfer of their employment; and
- (c) give employees of the Customer, Replacement Contractor and any Sub-Contractors of the Replacement Contractor (as relevant) such access to the Transferring Employees prior to the Exit Transfer Date as the Customer, Replacement Contractor and any Sub-Contractors of the

Replacement Contractor (as relevant) may reasonably require for the purposes of consultation or of effecting an efficient transfer of the Services and Transferring Employees with effect from the Exit Transfer Date.

- 4.5 Subject to paragraph 4.7, the Contractor shall indemnify and keep indemnified the Customer (for itself, any Replacement Contractor and any Sub-Contractor of a Replacement Contractor) against all and any costs, expenses, liabilities, damages and losses arising out of or in connection with any claim, demand, action or proceeding which is made or brought by or in respect of any Transferring Employee (or, where applicable any appropriate representative as defined in TUPE) arising from or as a result of:
- (a) any act or omission by the Contractor or any of its Sub-Contractors whether occurring before, on or after the relevant Transfer Date;
 - (b) any events or circumstances relating to the employment or termination of employment of any Transferring Employee occurring or arising during the period on or after the Transfer Date, but up to and including the Exit Transfer Date
 - (c) the breach or non-observance by the Contractor or any of its Sub-Contractors on or prior to the Exit Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Employee; and/or
 - (ii) any custom or practice in respect of any Transferring Employees which the Contractor or Sub-Contractor is contractually bound to honour;
 - (d) any claim by any trade union or other body or person representing any Transferring Employees arising from or connected with any failure by the Contractor or its Sub-Contractors to comply with any legal obligation to such trade union, body or person arising on or before the Exit Transfer Date;
 - (e) any proposal by the Contractor or its Sub-Contractors prior to the Exit Transfer Date to make changes to the terms and conditions of employment or working conditions of any Transferring Employees to their material detriment on or after their transfer to the Customer, Replacement Contractor or its Sub-Contractors (as the case may be), or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Employee but for their resignation (or decision to treat their employment as terminated under Regulation 4(9) of TUPE) before the Exit Transfer Date as a result of or for a reason connected to such proposed changes;
 - (f) any statement communicated to or action undertaken by the Contractor or its Sub-Contractors to, or in respect of, any Transferring Employee before the Exit Transfer Date regarding the Exit Transfer which has not been agreed in advance with the Customer and/or the Previous Contractor in writing;
 - (g) any proceeding, claim or demand by HMRC or other statutory ombudsman in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory ombudsman relates to financial obligations arising on or before the Exit Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Employee, and in respect of whom it is later alleged or determined that TUPE applied so as to transfer his/her employment from the Previous Contractor to the Contractor or its Sub-Contractors, to the extent that the proceeding, claim or demand by the HMRC or other statutory ombudsman relates to financial obligations arising before, on or after the Exit Transfer Date;
 - (h) a failure of the Contractor or its Sub-Contractors to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Employees in respect of the period up to and including the Exit Transfer Date;

- (i) any claim made in respect of a failure by the Contractor or its Sub-Contractors to comply with Regulation 11 of TUPE in respect of the Exit Transfer;
 - (j) any claim made by or in respect of a Transferring Employee or any appropriate employee representative (as defined in TUPE) of any Transferring Employee relating to any act or omission of the Contractor or its Sub-Contractors in relation to obligations under Regulation 13 of TUPE, except to the extent that the liability arises from a failure of the Customer, the Replacement Contractor or any Sub-Contractor of a Replacement Contractor (as relevant) to comply with its/their obligations under Regulation 13(4) of TUPE.
- 4.6 The Contractor shall indemnify and keep indemnified the Customer (for itself, any Replacement Contractor and any Sub-Contractor of a Replacement Contractor) against all and any costs, expenses, liabilities, damages and losses arising out of or in connection with any claim, demand, action or proceeding which is made or brought by any person who is not a Transferring Employee (a "**Non-Disclosed Transferring Employee**") and which is made by virtue of the operation or alleged operation of TUPE and relates to circumstances or events occurring or arising at any time in relation to or arising out of any such Non-Disclosed Transferring Employee's employment, alleged employment, dismissal or alleged dismissal.
- 4.7 The Customer shall indemnify and keep indemnified the Contractor against all and any costs, expenses, liabilities, damages and losses arising out of or in connection with any claim, demand, action or proceeding which is made or brought by or on behalf of any Transferring Employee against the Contractor:
- (a) in relation to the employment or termination of employment of any Transferring Employee after the Exit Transfer Date; or
 - (b) in relation to any failure or alleged failure of the Customer or a Replacement Contractor to comply with its or their obligations under Regulation 13(4) of TUPE, save to the extent that any such failure or alleged failure is as a result of or in consequence of the Contractor's (or any of its Sub-Contractor's) failure to provide the Customer or Replacement Contractor with sufficient information about the Transferring Employees to enable the Customer or Replacement Contractor to comply with Regulation 13(4) of TUPE.

5. Principles of Good Employment Practice

- 5.1 The Contractor shall, and shall procure that its Sub-Contractors shall, comply with any requirement notified to it by the Customer relating to pensions in respect of any Transferring Employee as set down in:
- (a) the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector of January 2000, revised 2007;
 - (b) HM Treasury's guidance "Staff Transfers from Central Government: A Fair Deal for Staff Pensions of 1999;
 - (c) HM Treasury's guidance: "Fair deal for staff pensions: procurement of Bulk Transfer Agreements and Related Issues" of June 2004; and/or
 - (d) the New Fair Deal.
- 5.2 Any changes embodied in any statement of practice, paper or other guidance that replaces any of the documentation referred to in paragraph 5.1 shall be agreed in accordance with the Change Control Procedure.

Annex A – CHANGE CONTROL PROCEDURES

[List of employees to be inserted here in due course.]