



Crown
Commercial
Service

Department for Work and Pensions

- and -

British Telecommunications PLC

CONTRACT

relating to

SO-7495 Provision of BT Phone Book Listings

CONTENTS

1.	TERMS AND CONDITIONS.....	3
2.	SCHEDULE ONE (1) SERVICE DELIVERY PROPOSAL	14

THIS CONTRACT is made on the 26th day of October 2015

BETWEEN

- (1) Department for Work and Pensions of **Redacted** (the “**CUSTOMER**”); and
- (2) British Telecommunications PLC, a company registered in **Redacted** under company number **Redacted** and whose registered office is at BT Centre, **Redacted** (the “**CONTRACTOR**”).

BACKGROUND

- (A) The Service Provider submitted a Proposal on 25th day of August 2015.
- (B) This contract sets out the main terms and conditions for the provision of the Authority’s requirement and the obligations of the Service Provider during and after the term of this Contract.
- (C) The contract period is 01/01/2015 to 31/12/2017.
- (D) The contract value is **Redacted** per annum. The maximum value of the contract is **Redacted** (excluding VAT).

IT IS AGREED as follows:-

1. Interpretation

In these Conditions:

- 1.1 “the DWP” means the Department for Work and Pensions;
- 1.2 “the Contractor” means the person who undertakes to render the services specified on the order;
- 1.3 “the Contract” means the agreement concluded between the DWP and the Contractor, for the supply of the services and related goods (if any);
- 1.4 “the Work” includes all work to be performed and services to be rendered, and other obligations to be fulfilled by the Contractor;
- 1.5 “the Contract Price” means the price exclusive of Value Added Tax, payable to the Contractor by the DWP under the Contract for the full and proper performance by the Contractor of his part of the Contract;
- 1.6 “Government Property” means anything issued or otherwise furnished in connection with the Contract by or on behalf of the DWP or its authorised representative;
- 1.7 “month” means calendar month;
- 1.8 “Working Days” means Monday to Friday excluding English public and bank holidays;
- 1.9 “person” includes a corporation;

- 1.10 “representative of the DWP” in any provision of the Contract means the person duly authorised by the DWP to act for the purposes of the provision;
- 1.11 “Confidential Information” means any information which has been designated as confidential by either party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Contractor, including IPRs, together with all information derived from the above, and any other information clearly designated as being confidential or which ought reasonably to be considered to be confidential;
- 1.12 “the Phone Book” means a series of printed directories as described in clause 1.2 of Schedule 1;
- 1.13 “Advertisement” means any combination of text and/or graphics and/or photographs published in print or displayed online (including hypertext links) intended to promote the identity, products or services of an individual, business or organisation, which is accepted by the Contractor and published in Advertising Media;
- 1.14 “Advertising Media” means collectively the Phone Book, the Phone Book Online, BT Directory sites and any Internet Search Engine as the Contractor may determine, all as defined within these Conditions or in the Service Schedules;
- 1.15 “FOIA” means the Freedom of Information Act 2000;
- 1.16 “Copy Details” means the content of the DWP’s Advertisement;
- 1.17 “Quick Response Code (QR Code)” means a two dimensional code consisting of black modules arranged in a square pattern on a white background which, when scanned by a QR Code enabled device, links to a website;
- 1.18 “Technical Specification” means the document which the Contractor will provide to the DWP detailing the artwork and delivery specifications required for Advertisements to be published in Advertising Media
- 1.19 “Group Company” means the Contractor, its ultimate holding company and all subsidiaries of its ultimate holding company.

2. Acts by DWP

Any decision, act or thing which the DWP is required or authorised to take or do under the Contract may be taken or done by any person authorised, either generally or specifically, by the DWP to take or do that decision, act or thing.

3. Service of Notice

Any notice or other communication, which the DWP is required to give under the Contract will be sufficiently given if sent by recorded delivery or registered post to the last known address of the Contractor.

4. Amendments and Variations

No amendment or variation in the terms and conditions of the Contract will be valid unless previously agreed in writing between the DWP and the Contractor and no payment will be made for unauthorised work.

5. Transfer and Sub-letting

5.1 Subject to Condition 5.2, the Contractor shall not give, bargain, sell, assign, sub-let or otherwise dispose of the Contract or any part thereof without the previous consent in writing of the DWP.

5.2 The Contractor may, after having given prior written notice to the DWP, assign, transfer or subcontract any or all of its rights and obligations under the Contract to any member of the Group for so long as that company remains a member of the Group, provided that the assignee agrees in writing with the assignor to be bound by the obligations of the assignor under the Contract. The assignor shall procure that such assignee assigns any rights assigned to it in accordance with this Condition 5.2 back to the assignor immediately before it ceases to be a member of the Group.

6. Payment

6.1 On presentation of a correct invoice quoting the DWP contract and purchase order number and confirming the Work has been performed, the DWP shall pay the Contract Price to the Contractor. Payment will be made within 30 Working Days of receipt of the invoice by the DWP.

6.2 Invoices will show:

6.2.1 the number of Phone Books;

6.2.2 the Advertisement types;

6.2.3 the amount of the Work for which the payment is claimed; and

6.2.4 the Contract Price.

6.3 Invoices for the Work performed shall be rendered at the time and in the manner specified by the DWP.

6.4 The DWP shall pay all sums by direct credit transfer into a suitable bank account or by other electronic payment methods as appropriate.

6.5 If, for the purpose of performing the Contract, the Contractor enters into a new contract for the supply of goods or services to the Contractor by a third party, the Contractor shall include in that contract a provision which requires the Contractor to pay for those goods or services within 30 Working Days of the Contractor receiving a correct invoice from that third party.

7. Recovery of Sums Due

7.1 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 any contract with the DWP or with any other department or office of Her Majesty's Government.

7.2 Any over-payment by the DWP to the Contractor whether of charges or of Value Added Tax shall be a sum of money recoverable from the Contractor. The DWP shall notify the Contractor in writing prior to recovering such sum of money.

8. Value Added Tax

8.1 The DWP shall pay to the Contractor, in addition to the Contract Price, a sum equal to the Value Added Tax chargeable on the value of the Work performed in accordance with the Contract.

8.2 The Contractor shall, if so requested by the DWP, furnish such information as may reasonably be required by the DWP as to the amount of Value Added Tax chargeable on the Work in accordance with the Contract and payable by the DWP to the Contractor in addition to the Contract price. Any overpayments by the DWP to the Contractor shall be a sum of money recoverable from the Contractor for the purposes of Condition 7.

9. Bankruptcy

9.1 The DWP may at any time by notice in writing summarily determine the Contract without compensation to the Contractor if the Contractor, being a company:

9.1.1 is the subject of a proposal for a voluntary arrangement; or

9.1.2 has a petition for an administration order or a petition for a winding-up order brought against it; or

9.1.3 passes a resolution for a winding-up order; or

9.1.4 makes any composition, arrangement, conveyance or assignment for the benefit of its creditors; or purports to do so; or

9.1.5 a receiver or any other person is appointed in respect of its undertaking or of all or any of its property

Provided always that such determination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the DWP.

10. Termination

Either party shall have the right to terminate the Contract if the other party is in breach of any of the conditions of the Contract and such breach shall not have been remedied to the satisfaction of the injured party within a period of thirty days of written notification of such breach to the other party. Notice of termination shall be given to the offending party in writing with immediate effect and such termination shall be without prejudice to the rights of the parties accrued to the date of determination.

11. Arbitration

11.1 Any dispute between the parties in respect of any matter arising out of, or in relation to, the Contract must be raised with the DWP's or Contractor's representative as appropriate giving all relevant details including the nature and extent of the dispute. The DWP and Contractor will use reasonable endeavours to resolve any dispute as follows:

11.1.1 a dispute which has not been resolved by the DWP's or Contractor's representative within 14 days of being raised may be referred by the DWP or Contractor to the first level by written notice to the other; and

11.1.2 if the dispute is not resolved at the first level within 14 days of referral, the DWP or Contractor may refer the dispute to the second level by written notice to the other.

The DWP and Contractor's representatives at the first and second levels are as notified by the DWP and Contractor to the other from time to time.

11.2 If the dispute is not resolved after the procedures detailed in Condition 11.1 have been followed then the parties agree to consider resolving the dispute by an Alternative Dispute Resolution (ADR) mechanism, including but not limited to:

11.2.1 early neutral evaluation in accordance with the IDRS (International Dispute Resolution Services) Model Early Neutral Evaluation Procedure; or

11.2.2 expert non-binding determination in accordance with the IDRS Cost-Controlled Expert Determination Procedure; or

11.2.3 mediation in accordance with the IDRS Cost-Controlled Mediation Procedure.

Any ADR will be conducted in London and in the English language.

11.3 Nothing in this Condition 11 will prevent the DWP or Contractor from exercising any rights and remedies that may be available in respect of any breach of the provisions of the Contract.

12. Break

12.1 The DWP shall, in addition to its power under any other provision of the Contract, have power to determine the Contract at any time by giving the Contractor written notice to expire at the end of the period of notice specified for the purpose of this Condition in the Contract or if no such period is specified at the end of one month and upon expiration of the notice the Contract shall be determined without prejudice to rights of the parties accrued to the date of determination but subject to the operation of the following provisions:

12.1.1 if such notice is given the DWP shall indemnify the Contractor against commitments, liabilities or expenditure which would otherwise represent an unavoidable loss by the Contractor by reason of the determination of the Contract and shall further negotiate a payment representing reasonable loss of profit, if any, to the Contractor;

12.1.2 the DWP shall not be liable to pay under the provisions of Condition 12.1 and 12.1.1 any sum which, when taken together with any sums paid or due or becoming due to the Contractor under the Contract, shall exceed such total sum as would have been payable under the Contract if the work had been completed in accordance with the requirements of the Contract.

12.2 If hardship to the Contractor should arise from the operation of Condition 12.1.2 it shall be open to the Contractor to refer the circumstances to the DWP who, on being satisfied that such hardship exists, shall make such allowance, if any, as in its opinion is reasonable, and the decision of the DWP on any matter or thing arising out of this Condition shall be final and conclusive.

13. Official Secrets

The Contractor's attention is drawn to the provisions of the Official Secrets Acts 1911 to 1989 and to any statutory amendment or re-enactment thereof. The Contractor shall take all reasonable steps by display of notices or by other appropriate means to ensure that all persons employed on the Work in connection with the Contract have notice that these statutory provisions apply to them and will continue so to apply after the completion or early determination of the Contract.

14. Confidentiality

14.1 The Contractor undertakes:

14.1.1 to treat as confidential all information which may be derived from or obtained in the course of the Contract; and

14.1.2 to take all necessary precautions to ensure that all such information is treated as confidential by the Contractor, his staff, agents and sub-contractors.

14.2 The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The DWP shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.

14.3 Without prejudice to Condition 14.2, the DWP may consult with the Contractor (in accordance with the Ministry of Justice procedural guidance) to inform its decision regarding any exemptions but the DWP shall have the final decision in its absolute discretion.

14.4 Notwithstanding any other term of this Contract, the Contractor hereby gives his consent for the DWP to publish the Contract in its entirety (but with any information which exempt from disclosure in

accordance with the provisions of the FOIA redacted), including from time to time agreed changes to the Contract, to the general public.

15. Corrupt Gifts and Payments of Commission

15.1 The Contractor shall not:

15.1.1 offer or give, or agree to give, to any person employed by or on behalf of the DWP any gift or consideration of any kind as an inducement or reward for doing or having done or not doing any act in relation to the obtaining or execution of any contract with the DWP or for showing or for not showing favour or dis-favour to any person in relation to any contract with the DWP;

15.1.2 enter into any contract with the DWP or any other department or office of Her Majesty's Government in connection with which commission has been paid or agreed to be paid by him or on his behalf, or to his knowledge, unless before the Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to any person duly authorised by the DWP to act as its representative for the purpose of this Condition.

Note: nothing contained in this Condition prevents the Contractor paying such commission or bonuses to his own staff as are within their agreed contract of employment.

15.2 Any breach of this Condition by the Contractor or by anyone employed by him or acting on his behalf (whether with or without his knowledge) or the commission of any offence by the Contractor or by anyone employed by him or acting on his behalf under the Prevention of Corruption Acts 1889 to 1916, in relation to any contract with the DWP shall entitle the DWP to determine the Contract and recover from the Contractor the amount of any loss resulting from such determination and/or recover from the Contractor the amount of the value of any such gift, consideration or commission, as the DWP shall think fit.

15.3 In any dispute, difference or question arising in respect of:

15.3.1 the interpretation of this Condition (except so far as the same may relate to the amount recoverable from the Contractor under Condition 15.2) in respect of any loss resulting from such determination of the Contract; or

15.3.2 the right of the DWP to determine the Contract; or

15.3.3 the amount or value of any gift, consideration or commission; the decision of the DWP shall be final and conclusive.

16. Issued Government Property

16.1 All Government Property issued in connection with the Contract shall remain the property of the DWP and shall be used in the execution of the Contract and for no other purpose whatsoever save with the prior approval in writing of the DWP.

16.2 All such property shall be deemed to be in good condition when received by or on behalf of the Contractor unless he notifies the DWP to the contrary within 14 days or such other time as is specified in the Contract.

16.3 The Contractor shall undertake to return all such property so issued and will be responsible for all loss thereof or damage thereto from whatever cause up to a maximum of **Redacted**.

17. Liability

17.1 The Contractor shall not be liable for any loss, damage, or delay suffered by the DWP to the extent that such loss, damage or delay is attributable to instructions given by or on behalf of the DWP.

- 17.2 Nothing in these Conditions nor in any part of the Contract shall impose any liability on any member of the staff of the DWP or its representatives in their personal capacity.
- 17.3 The Contractor shall accept liability as set out in the Contract.
- 17.4 The Contractor shall not exclude or restrict its liability for death or personal injury caused by its own negligence or the negligence of its employees or agents acting in the course of their employment or agency or for fraudulent misrepresentation or to any extent not permitted by law.
- 17.5 The Contractor is not liable to the DWP, either in contract, tort (including negligence) or otherwise for any direct or indirect loss of profits, revenue, business or business interruption, anticipated savings, opportunity, expenditure (including wasted or of employees'/agents' time), data (including any destruction of data), contracts and goodwill.
- 17.6 Not used
- 17.7 The Contractor accepts liability for reasonably foreseeable losses arising from the Contractor's failure to provide the Work in accordance with the requirements of the Contract up to a maximum of **Redacted** where the Contractor has mitigated the DWP's losses by carrying out any of the steps detailed in Condition 17.7.1, 17.7.2 or 17.7.3;
- 17.7.1 amended any Advertisement to correct any errors or omissions made by the Contractor in the Advertising Media, excluding The Phone Book; or
- 17.7.2 where the Contractor has refunded (in part or total) the amount that has been paid by the DWP; or
- 17.7.3 where the Contractor has offered to republish the Advertisement in the same Advertising Media at no additional charge.
- 17.7 Each part of this Condition operates separately. If any part of a Condition is held by a Court to be unreasonable or inapplicable the rest of the Condition will continue to apply.
- 17.8 Nothing in this Condition 17 shall exclude or limit the liability of the DWP to pay the Contractor any charges properly due for provision of the Work.
- 17.9 The Contractor shall make available to the DWP a copy of Public Liability Insurance Policy.

18. Indemnities

- 18.1 The Contractor shall indemnify the DWP against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of copyright, patent, registered design or other property right used by or on behalf of the Contractor for the purpose of the Contract, providing that any such infringement is not knowingly caused by, or contributed to, by any act of the DWP.
- 18.2 The DWP shall indemnify the Contractor against all actions, claims, demands, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of copyright, patent, registered design or other property right used at the request of the DWP by the Contractor in the course of performing the Contract.
- 18.3 In relation to any claim or allegation of infringement the indemnified party will promptly notify the Indemnifying party in writing and must not make any admission without the indemnifying party's prior written consent (not to be unreasonably withheld or delayed). The indemnified party will allow the

indemnifying party sole conduct of all negotiations and proceedings and give the indemnifying party all reasonable assistance in doing so provided always that the indemnifying party shall:

18.3.1 consult with the indemnified party on all substantive issues which arise during the conduct of such negotiations and litigation;

18.3.2 take due and proper account of the interests of the indemnified party; and

The indemnifying party will pay the indemnified party's reasonable expenses for such assistance.

18.4 The respective indemnities in Condition 18.1 and 18.2 set out the respective indemnified party's exclusive remedy for claims of infringement of intellectual property rights.

19. Law

The Contract shall be considered as a contract made in England and shall be governed by, and construed in accordance with the provisions of English Law.

20. Waiver

The failure of either party at any time to enforce any provision of the Contract shall in no way affect its rights thereafter to require complete performance by the other party, nor shall the waiver of any breach of any provision be taken or held to be a waiver of any subsequent breach of any such provision or be a waiver of the provision itself.

21. Severability

If any condition, clause or provision of the Contract not being of a fundamental nature be held to be illegal or unenforceable, the validity or enforceability of the remainder of the Contract shall not be affected thereby.

22. Discrimination

22.1 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as age, disability, gender reassignment, marriage and civil partnerships, pregnancy and maternity, race, religion or belief, sex or sexual orientation and without prejudice to the generality of the foregoing the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

22.2 The Contractor shall take all reasonable steps to secure the observance of the provisions of Condition 22.1 by all staff or agents of the Contractor and all sub-contractors employed in the execution of the Contract.

23. Special Provisions

In the event of any conflict or inconsistency between these general Conditions and any special conditions contained within the Contract, such special conditions shall prevail.

24. Performance

24.1 The Work shall be carried out in accordance with the Contract

24.2 The Contractor will publish Advertisements using the details recorded on the Order Form and the Copy Details provided by the DWP. The Contractor will use reasonable endeavours to publish Advertisements correctly, but occasionally errors and omissions may occur. The Contractor's liability in the event of an error or omission in an Advertisement caused by the Contractor is set out in Condition 17. Where an error or omission is caused by the DWP, charges for the Advertisement

remain payable in full by the DWP and no refund will be offered. The Contractor may make an additional charge to correct any error or omission in such circumstances.

- 24.3 The Contractor will not be liable for any omission where the DWP has failed to provide the Contractor with the Copy Details at the correct time or has provided unsuitable or unusable Copy Details.
- 24.4 If the Work or any part thereof is suspended by the DWP or its authorised representative (otherwise than in consequence of default or negligence on the part of the Contractor) or if the Contractor is delayed in proceeding with the Work by the DWP or its authorised representative, the DWP shall be responsible for any loss incurred by the Contractor as a result of such suspension or delay.
- 24.5 If the performance of the Contract by the Contractor is delayed by causes mentioned in Condition 24.4 or by reason of any act on the part of the DWP, or by industrial dispute or any other cause which the Contractor could not have prevented and for which he was not responsible then the Contractor shall be allowed a reasonable extension of time for completion.
- 24.6 The Contractor will try to provide the Work by any date agreed with the DWP, but all dates are estimates.

25. Progress reports

- 25.1 Where formal progress reports are specified in the Contract, the Contractor shall render such reports at such time and in such form as may be specified or as otherwise agreed between the Contractor and the DWP or its authorised representative.
- 25.2 The submission and the acceptance of progress reports shall not prejudice the rights of the DWP under any other condition of the Contract.

26. Rights to the Results of Work

- 26.1 Except as expressly set out in the Contract, the DWP and the Contractor shall not acquire any rights or licences to the other's Intellectual Property Rights.
- 26.2 The DWP warrants it is the owner of, or is licensed by the owner to use, all Intellectual Property Rights (including any Copyright or Trade Marks) in the Copy Details and/or in the content of any website, webpage or other online destination a QR Code directs readers to.
- 26.3 All Intellectual Property Rights (including Copyright in any artwork) created by the Contractor in connection with the Contract will remain the property of the Contractor or its licensors.
- 26.4 If the DWP asks the Contractor to prepare any artwork or material for an Advertisement the Contractor will grant the DWP a non-transferable non-exclusive licence to use the artwork in that or any future Advertisement in any Advertising Media.
- 26.5 All Intellectual Property Rights (including Copyright in any artwork) created by the DWP in connection with the Contract will remain the property of the DWP or its licensors. Such material or report shall not be reproduced, or disseminated for any other purpose by the Contractor, without the prior written permission of the Controller of Her Majesty's Stationery Office. All applications for such permission shall be submitted in the first instance to the DWP.
- 26.6 The Contractor shall not use any data, reports, drawings, specifications, designs, inventions, plans, programmes or other material produced in the course or the purpose of the Work without first obtaining written permission from the DWP.

27. Publicity concerning the Work

- 27.1 The Contractor shall not:

27.1.1 make any press announcements or publicise this Contract or its contents in any way; or

27.1.2 use the DWP's name or brand in any promotion or marketing or announcement of orders; without the prior written consent of the DWP, which shall not be unreasonably withheld or delayed

28. Contractor's Personnel

28.1 The DWP reserves the right to refuse to admit to premises occupied by or on behalf of the DWP any person employed by the Contractor, or by a sub-contractor, whose admission would be, in the opinion of the DWP, undesirable.

28.2 If and when directed by the DWP, the Contractor shall provide a list of names and addresses of all persons who may at any time require admission in connection with the performance of the Contract, to any premises occupied by or on behalf of the DWP, specifying the capacities in which they are concerned with the Contractor and giving such other particulars as the DWP may require.

28.3 If and when directed by the DWP, the Contractor shall secure that any person employed by him, or by a sub-contractor, who is specified in the direction, or is one of a class of persons who may be so specified, shall sign a statement that he understands that the Official Secrets Acts 1911 to 1989 apply to the person signing the statement both during the carrying out and after completion or determination of the Contract.

28.4 The Contractor shall comply with all applicable legislation relating to safeguarding and protecting vulnerable groups, including the Safeguarding Vulnerable Groups Act 2006, the Safeguarding Vulnerable Groups Order (Northern Ireland) 2007 and the Protecting Vulnerable Groups Act 2007 or other relevant or equivalent legislation, or any statutory modification or re-enactment thereof.

28.5 If the Contractor shall fail to comply with Condition 28.2 and if the DWP (whose decision shall be final and conclusive) decides that such failure is prejudicial to its interests, then the DWP may summarily determine the Contract by notice in writing to the Contractor always providing that such determination shall not prejudice or affect any right of action or remedy which shall have accrued, or shall accrue thereafter, to the DWP.

28.6 The decision of the DWP as to whether any person is to be refused admission to official premises and as to whether the Contractor has failed to comply with Conditions 28.2 or 28.3 shall be final and conclusive.

29. Data Protection

29.1 The Contractor shall not disclose or allow access to any personal data provided by the DWP or acquired by the Contractor during the course of tendering for or executing the Contract, other than to a person employed or engaged by the Contractor or any sub-contractor, agent or other person concerned with the same.

29.2 Any disclosure of or access to personal data allowed under Condition 29.1 shall be made in confidence and shall extend only so far as that which is specifically necessary for the purpose of the Contract.

29.3 The Contractor shall store or process such personal data only at sites located in the UK. If the Contractor wishes to store or process such personal data outside the UK it will first obtain the written authorisation from the DWP, which will not be unreasonably withheld or delayed, to do so.

29.4 The Contractor shall 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.

Signed for and on behalf of the Authority:

By:

Name:

Title:

Date:

Signed for and on behalf of the Supplier:

By:

Name:

Title:

Date:

**Schedule One (1)
Service Delivery Proposal**

Redacted