

1. CONTRACT FOR THE SUPPLY OF HUB & NEXUS TO ANGLIA REVENUES PARTNERSHIP FOR 2023-24 & 2024-25

Period of contract: 24 months – to be invoiced annually (with option to extend for further 12 months)

Start Date : 1st October 2023


Cost: £25,000/annum

1.1 SERVICES TO BE PROVIDED

- Access to Destin Solutions HUB & NEXUS via a hosted secure URL for the following councils:
 - Breckland Council
 - East Cambridgeshire District Council
 - East Suffolk Council
 - Fenland District Council
 - West Suffolk Council
- Telephone, email support throughout the contract period.
- Solutions accessible during normal office hours (8:00am to 6:00pm).

1.2 NOTES

- Access and usage is subject to Destin Solutions standard Terms and Conditions at Appendix A
- The data is held on Destin Solutions servers which are located in a secure Data Centre

Duncan Baxter	Name
Director	Position
	Signature
Destin Solutions	Anglia Revenues Partnership

Appendix A

1. DESTIN SOLUTIONS LTD AND ANGLIA REVENUES PARTNERSHIP - TERMS AND CONDITIONS

1. The Customer (Anglia Revenues Partnership) is licensed to use the HUB & NEXUS applications (the Applications) for internal purposes between itself and the 5 billing authorities and from remote locations providing the access is for purposes directly associated with the Council. Any development of the Applications to provide access to a third party must be with the express permission of Destin Solutions Ltd.
2. The Customer and any party granted use of the Applications in accordance with the terms of this Contract shall:
3. not (and instruct its employees having access to the Applications not to) copy the contents of the Applications for use by a third party, or assist any third party to do so:
4. not permit access to the Applications by any third party, except access by temporary staff or Customer's sub-contractors solely for the Customer's purposes.

2. CUSTOMER RESPONSIBILITIES

1. The Customer understands and agrees to access and view the Applications in supported web browsers only and with the correct settings as prescribed by Destin Solutions Ltd in the terms of service or contract.
2. The Customer will ensure that the end users of the Applications as well as new and transferred staff are properly trained in how to use them, following initial training delivered by Destin Solutions Ltd.
3. The Customer must not frame or otherwise re-publish or re-distribute the Applications.
4. The Customer must not alter or adapt or edit the Applications, save as expressly permitted by the Documentation, and
5. For the avoidance of doubt, the Customer has no right to access the object code or source code of the Applications, either during or after the Term.
6. The Customer shall use all reasonable endeavours to ensure that no unauthorised person will or could access the Applications using the Customer's account.
7. The Customer must not use the Applications in any way that causes, or may cause, damage to the Applications or impairment of the availability or accessibility of the Applications, or any of the areas of, or services on, the Applications.
8. The Customer must not use the Applications:
 - (a) in any way that is unlawful, illegal, fraudulent or harmful; or
 - (b) in connection with any unlawful, illegal, fraudulent or harmful purpose or activity.

9. The Customer must not:

- (a) sell, resell, rent, lease, loan, supply, distribute, redistribute, publish or re-publish the Applications or any part of the Applications
 - (b) modify, alter, adapt, translate or edit, or create derivative works of, the Applications or any part of the Applications
 - (c) reverse engineer, decompile, disassemble the Applications or any part of the Applications
 - (d) use the Applications other than in accordance with the Documentation; or circumvent or remove or attempt to circumvent or remove the technological measures applied to the Applications for the purposes of preventing unauthorised use.
10. All Intellectual Property Rights in the Applications shall, as between the parties, be the exclusive property of Destin Solutions Ltd.
11. The Customer shall be responsible for the security of the Customer's copies of the Applications, and will use all reasonable endeavours to ensure that access to the Applications is restricted to persons authorised to use it.
12. The Customer warrants and represents to Destin Solutions that the Customers datasets, and their use by Destin in accordance with the terms of the Agreement, will not:
- breach any laws, statutes, regulations or legally-binding codes;
 - infringe any person's Intellectual Property Rights or other legal rights; or
 - give rise to any cause of action against Destin Solutions or the Customer or any third party.

3. DESTIN RESPONSIBILITIES

1. During the Term Destin Solutions will provide Support Services to the Customer, and may apply upgrades or enhanced features and functionality to the Applications, in the general course of business and product development.
2. Destin Solutions will not sub-contract the provision of any Support Services without obtaining the prior written consent of the Customer.
3. Destin Solutions agree to align user password requirements with KCC User ID and Authentication policy.
4. Destin Solutions agree to formalise and use account review and deletion processes for users of the Kent Intelligence Network.
5. Destin Solutions have in place a full business continuity plan which is regularly tested and reviewed, a copy can be made available on request.
6. Destin Solutions Ltd warrants that it has in place appropriate security measures (both technical and organisational) against unlawful or unauthorised processing of Personal Data and against loss or

corruption of Personal Data processed by Destin Solutions on behalf of the Customer. More details of this can be found in Schedule 1.

4. DATA PROTECTION RESPONSIBILITIES

1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor unless otherwise specified in Schedule 1. The only processing that the Processor is authorised to do is listed in Schedule 1 by the Controller and may not be determined by the Processor.
2. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
3. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
4. The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
 - (a) process that Personal Data only in accordance with Schedule 1, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
 - (b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;
 - (c) ensure that :
 - (i) the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Schedule 1);
 - (ii) it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with the Processor's duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;

- (C) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and
 - (d) not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
 - (i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
 - (iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
 - (e) at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.
5. Subject to clause 1.6, the Processor shall notify the Controller immediately if it:
- (a) receives a Data Subject Request (or purported Data Subject Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
 - (e) receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
 - (f) becomes aware of a Data Loss Event.
6. The Processor's obligation to notify under clause 1.5 shall include the provision of further information to the Controller in phases, as details become available.
7. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 1.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- (a) the Controller with full details and copies of the complaint, communication or request;
 - (b) such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - (c) the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - (d) assistance as requested by the Controller following any Data Loss Event;

- (e) assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 8. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
 - (a) the Controller determines that the processing is not occasional;
 - (b) the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; or
 - (c) the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 9. The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 10. Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
- 11. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
 - (a) notify the Controller in writing of the intended Sub-processor and processing;
 - (b) obtain the written consent of the Controller;
 - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and
 - (d) provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 12. The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
- 13. The Controller may, at any time on not less than 30 Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
- 14. The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than 30 Working Days' notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 15. Where the Parties include two or more Joint Controllers as identified in Schedule 1 in accordance with GDPR Article 26, those Parties shall enter into a Joint Controller Agreement based on the terms outlined in Schedule 1 in replacement of Clauses 1-14 for the Personal Data under Joint Control.

5. CUSTOMISATIONS

- 1. From time to time Destin Solutions Ltd and the Customer may agree that Destin will customise the Applications in accordance with a specification agreed in writing between the parties.

2. The Customer acknowledges that Destin Solutions Ltd may make any Customisation available to its other Customers.
3. All Intellectual Property Rights in the Customisations shall, as between the parties, be the exclusive property of Destin Solutions Ltd.
4. The Customer will provide Destin Solutions Ltd with:
 - such access to the Customer's computer systems and such other co-operation as is required by Destin (acting reasonably) to enable the performance by Destin of its obligations under this Clause;
 - The Customer will be responsible for procuring any third party co-operation reasonably required by Destin Solutions to enable Destin to fulfil its obligations under this Clause.

6. WARRANTIES

1. Destin Solutions Ltd warrants that any Consultancy and Support provided under the Contract will be of a professional quality conforming to generally accepted industry standards.
2. Destin Solutions Ltd will have no liability or obligation under the Consultancy and Support warranty in respect of incorrect instructions or information from the Customer or the Customer's failure to provide information or documentation.
3. The Customer acknowledges that:
 - complex software is never wholly free from defects, errors and bugs, and Destin Solutions gives no warranty or representation that the Applications will be wholly free from such defects, errors and bugs;
 - Destin Solutions does not warrant or represent that the Applications will be compatible with any application, programme or software not specifically identified as compatible in the Terms of Services or contract.

7. PAYMENT AND RISK

1. The Customer agrees that they use the Applications at their own risk and any subsequent claims or damages sought by the Customer from Destin Solutions Ltd shall not exceed one million pounds. The cap on liability applies to the contract as a whole and not on each individual ARP Member.
2. The Customer agrees that Destin Solutions Ltd is in no way responsible nor can be held accountable for the data created solely in the Applications if it is deemed outside the terms of use.
3. The Customer agrees that Destin Solutions Ltd provide a platform for various datasets to be viewed, cleansed and reported on but Destin take no responsibility for monitoring or checking that the initial data provided by the Customer is correct.

4. The Customer shall pay to Destin Solutions Ltd the sums set out on the schedule or contract (together with VAT) at the times or on the dates detailed on the schedule or contract or (if none) within 14 days of the date of each invoice. The Customer will make all payments due without any deduction whether by way of set-off, counterclaim or otherwise.
5. In the event that the Customer fails to pay any correctly submitted invoice by the due date, then Destin Solutions Ltd reserves the right to suspend the provision of all Services, Consultancy and Support to the Customer.
6. Without prejudice to any other right or remedy available, Destin Solutions Ltd is entitled to charge the Customer interest on any monies overdue at the rate of 2.0% over the UK clearing bank base lending rate, commencing on the date that the sum becomes overdue until the date that payment is received.
7. In the event of the Customer cancelling delivery of previously agreed days of Consultancy with less than two full working days notice, Destin Solutions Ltd reserves the right to charge the Customer in full for the days in question, at the prevailing day rate for Management Consultancy services.
8. Both parties agree to treat as confidential all information contained in or embodied in any documentation made available to them and shall not disclose the whole or any part of the information to a third party without the prior written permission of the other party. The terms of this clause shall not apply to the following information:
 - Information which was in the public domain at the time of disclosure;
 - Information which, subsequently falls into the public domain through no fault of either party receiving the Confidential Information;
 - Information disclosed pursuant to a duty to disclose imposed by law or the requirements of a regulatory body but only to the extent so required; or
 - Information disclosed with the other party's prior written approval.
9. The foregoing obligations as to confidentiality shall remain in full force and effect notwithstanding any termination of the Contract for whatever reason.
10. Neither party will be liable for any loss of business, contracts or commercial opportunities.
11. Neither party will be liable for any loss of or damage to goodwill or reputation.
12. Neither party will be liable in respect of any loss or corruption of any data, database or software.
13. Neither party will be liable in respect of any special, indirect or consequential loss or damage.
14. Neither party will be liable for any losses arising out of a Force Majeure Event.

8. TERMINATION OF CONTRACT

1. The hosting and support for the Applications is for a 24 month period commencing from the 1st October 2023.
2. Either party may terminate the Agreement immediately by giving written notice to the other party if:

- a. the other party:
 - i. is dissolved;
 - ii. ceases to conduct all (or substantially all) of its business;
 - iii. is or becomes unable to pay its debts as they fall due;
 - iv. is or becomes insolvent or is declared insolvent; or
 - v. convenes a meeting or makes or proposes to make any arrangement or composition with its creditors;
 - b. an administrator, administrative receiver, liquidator, receiver, trustee, manager or similar is appointed over any of the assets of the other party;
 - c. an order is made for the winding up of the other party, or the other party passes a resolution for its winding up [(other than for the purpose of a solvent company reorganisation where the resulting entity will assume all the obligations of the other party under the Agreement)]; or
 - d. where that other party is an individual, that other party dies, or as a result of illness or incapacity becomes incapable of managing his or her own affairs, or is the subject of a bankruptcy petition or order.
3. Destin Solutions may terminate the Agreement immediately by giving written notice of termination to the Customer where the Customer fails to pay Destin Solutions any amount due to be paid under the Agreement by the due date.
 4. Upon termination of the contract by either party Destin Solutions will:
 - a. irrevocably delete from the Applications all Customer Confidential Information; and
 - b. irrevocably delete from its other computer systems all Customer Confidential Information, and return to the Customer or dispose of as the Customer may instruct all documents and materials containing Customer Confidential Information.
 5. Within 30 days following the termination of the Agreement, the Customer will:
 - a. return to Destin Solutions or dispose of as Destin may instruct all documents and materials containing Destin Solutions Confidential Information; and
 - b. irrevocably delete from its computer systems all Destin Solutions Confidential Information.

9. CONTRACT RENEGOTIATION

1. Under certain conditions the terms of the contract can be renegotiated. In the event that the way a Customers business fundamentally operates, changes, such as moving to a shared services model, Destin Solutions Ltd will review with the Customer how the provision of the Applications can be adapted to suit any new requirements.

10. FORCE MAJEURE EVENT

1. Where a Force Majeure Event gives rise to a failure or delay in either party performing its obligations under the Agreement other than obligations to make payment, those obligations will be suspended for the duration of the Force Majeure Event.
2. A party who becomes aware of a Force Majeure Event which gives rise to, or which is likely to give rise to, any failure or delay in performing its obligations under the Agreement, will:
 - a. forthwith notify the other; and
 - b. will inform the other of the period for which it is estimated that such failure or delay will continue.
3. The affected party will take reasonable steps to mitigate the effects of the Force Majeure Event.

11. GENERAL

1. Neither party shall be entitled to sell, assign, sub-licence, transfer or otherwise dispose of whether directly or indirectly any of its rights or obligations under the Contract without the prior written consent of the other party (save for the purposes of internal reconstruction only).
2. Should a dispute arise between the parties in relation to the Contract then prior to pursuing any legal rights the aggrieved party must provide written notification of the problem to a Director of the other party. Both parties shall then use all reasonable endeavours to resolve the dispute within thirty days. Should there still be no resolution then the aggrieved party is entitled to pursue its legal rights.
3. The construction, validity and performance of the Contract will be governed by English Law and subject to the exclusive jurisdiction of the English courts.

12. EXPLANATION OF TERMS

Consultancy This refers to any advice/guidance provided by Destin to the client in terms of the layout, development and design of the Applications.

Force Majeure This refers to unforeseeable circumstances that prevent someone from fulfilling a contract such as war, strike, riot and acts of god.

Support This refers to the advice and guidance provided by Destin to the client with regards to the day to day use of the Applications.

Party: a Party to this Agreement.

Agreement: this contract;

Law: means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply.

Processor Personnel: means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement.

GDPR CLAUSE DEFINITIONS:

Data Protection Legislation: (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy.

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data.

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer take the meaning given in the GDPR.

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.

Data Subject Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

DPA 2018: Data Protection Act 2018.

GDPR: the General Data Protection Regulation (*Regulation (EU) 2016/679*).

Joint Controllers: where two or more Controllers jointly determine the purposes and means of processing.

LED: Law Enforcement Directive (*Directive (EU) 2016/680*).

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it.

Sub-processor: any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement.