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Contract for the provision of [ ].

Reference – Social Work England 000[ ].

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31. THIS CONTRACT is made on the \*enter day\* day of \*enter month\* 2020.

BETWEEN

1. SOCIAL WORK ENGLAND (a body corporate established under section 36, Children and Social Work Act 2017) whose address is 1 North Bank, Blonk Street, Sheffield, S3 8JY (the **“Customer”**); and
2. [NAME OF COMPANY] (registered number [COMPANY NUMBER]) whose registered office is [ADDRESS] (the **“Contractor ”**).
3. **BACKGROUND**
4. Social Work England is a non-departmental public body, operating at arm’s length from government. We were established by the Children and Social Work Act 2017 (the **“Act”**) and became the new, specialist regulator for social workers in England from 2nd December 2019. Our central focus is public protection.

We regulate the social work profession by:

* Setting standards of practice and conduct in social work;
* Assuring the quality of social work education;
* Registering qualified social workers onto the public register;
* Ensuring social workers keep their skills and knowledge up to date (CPD requirements); and
* Investigating concerns raised about social workers (fitness to practise).

Social Work England wishes to engage the services of [NAME OF COMPANY] to provide [CONTRACT TITLE/DESCRIPTION OF SERVICES] on the terms set out below.

1 Interpretation

1.1 In this Contract the following words shall mean:

|  |  |
| --- | --- |
| “Central Government Body” | means a body listed in one of the following sub-categories of the Central Government classification of the Public Sector Classification Guide, as published and amended from time to time by the Office for National Statistics:* 1. Government Department;
	2. Non-Departmental Public Body or Assembly Sponsored Public Body (advisory, executive, or tribunal);
	3. Non-Ministerial Department; or
	4. Executive Agency.
 |
| “Confidential Information” | Social Work England’s Confidential Information and/or the Contractor's Confidential Information; |
| “Contract Manager” | [NAME (TITLE)]. Email for notices: [EMAIL ADDRESS].  |
| “Contractor’s Contract Manager” | [NAME (TITLE)]. Email for notices: [EMAIL ADDRESS].  |
| "Contractor Personnel" | means all persons employed by the Contractor together with the Contractor’s servants, agents, consultants, suppliers and Sub-contractors used in the performance of its obligations under this Contract; |
| "Control" | means that a person possesses, directly or indirectly, the power to direct or cause the direction of the management and policies of the other person (whether through the ownership of voting shares, by contract or otherwise) and **"Controls"** and **"Controlled"** shall be interpreted accordingly; |
| “Controller” | takes the meaning given in the GDPR; |
| “Data Loss Event” | event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach; |
| “Data Protection Impact Assessment” | an assessment by the Controller of the impact of the envisaged Processing on the protection of Personal Data; |
| “Data Protection Legislation” | Data Protection Legislation means:1. the GDPR, the LED and any applicable national implementing Laws as amended from time to time;
2. the DPA 2018 to the extent that it relates to Processing of Personal Data and privacy;
3. all applicable Law about the Processing of Personal Data and privacy including if applicable legally binding guidance and codes of practice issued by the Information Commissioner;
 |
| “Data Protection Officer” | takes the meaning given in the GDPR; |
| “Data Subject” | takes the meaning given in the GDPR; |
| “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” | the Data Protection Act 2018; |
| "Freedom of Information Act” or “FOIA" | the Freedom of Information Act 2000 and any subordinate legislation made under this 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; |
| “Force Majeure Event” | any event outside the reasonable control of either Party affecting its performance of its obligations under this Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control and which are not attributable to any wilful act, neglect or failure to take reasonable preventative action by that Party, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or regulatory bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to the Contractor or any other failure in the Contractor’s supply chain; |
| “GDPR” | the General Data Protection Regulation (Regulation (EU) 2016/679); |
| “Good Industry Practice” | means standards, practices, methods and process conforming to the Law and the exercise of that degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar undertaking under the same or similar circumstances; |
| "Information" | has the meaning given under section 84 of the Freedom of Information Act 2000; |
| "Intellectual Property Rights" | means any copyright, rights in designs, database rights, domain names, trademarks, service marks, patents or any applications for any of the foregoing, know-how or similar rights or obligations (whether registerable or not) including Moral Rights as defined in Chapter IV of the Copyright, Designs and Patents Act 1988; |
| “Joint Controllers” | where two or more Controllers jointly determine the purposes and means of Processing;  |
| “Law” | means any law, applicable Act of Parliament, 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 relevant Party is bound to comply; |
| “LED” | the Law Enforcement Directive (Directive (EU) 2016/680); |
| “Party” | the Customer or the Contractor and **“Parties”** will be interpreted accordingly; |
| “Personal Data” | takes the meaning given in the GDPR; |
| “Personal Data Breach” | takes the meaning given in the GDPR; |
| “Premises” | means Social Work England’s offices at 1 North Bank, Blonk Street, Sheffield, S3 8JY; |
| “Processing” | takes the meaning given in the GDPR; |
| “Processor” | takes the meaning given in the GDPR; |
| “Processor Personnel” | means all directors, officers, employees, agents, consultants and suppliers of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Contract; |
| “Property”  | means the property, other than real property, issued or made available to the Contractor by the Customer in connection with this Contract; |
| “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, including those set out in the Contract; |
| “Regulatory Bodies” | those Government Departments and regulatory, statutory and other entities, committees 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 this Contract or any other affairs of Social Work England, and **"Regulatory Body"** will beinterpreted accordingly; |
| "Request for Information" | a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations; |
| “Services” | the services to be performed by the Contractor as described in Schedule 1; |
| "SME" | means a micro, small or medium-sized enterprise defined in accordance with the European Commission Recommendation 2003/361/EC and any subsequent revisions; |
| "Sub-contractor" | any third party engaged by the Contractor under a Sub-contract and its servants or agents in connection with the provision of the Services under this Contract; |
| “Sub-processor” | any third party appointed to process Personal Data on behalf of the Contractor under this Contract; |
| "VCSE" | means an organisation operating in the voluntary, community, and social enterprise sector; |
| "Working Day" | any day other than a Saturday, Sunday or public holiday in England and Wales. |

1.2 References to “Contract” mean the entirety of this document including the Schedules. References to “Clauses” and “Schedules” mean clauses of and schedules to this Contract. The provisions of the Schedules shall be binding on the Parties as if set out in full in this Contract.

1.3 Reference to the singular include the plural and vice versa and references to any gender include both genders and the neuter. References to a person include any individual, firm, unincorporated association or body corporate.

2 Commencement and Continuation

* 1. The Contractor shall commence the Services on [DATE] and, subject to Clause 10.1 shall complete the Services on or before [DATE].
	2. The Contract may be extended by a further [NUMBER] months subject to satisfactory performance.
	3. This Contract shall be deemed to have been effective from [DATE].

3 Contractor's Obligations

* 1. The Contractor shall promptly and efficiently complete the Services in accordance with the provisions set out in Schedule 1.
	2. The Contractor shall comply with the accounting and information provisions of Schedule 2.
	3. The Contractor shall comply with all statutory provisions including all prior and subsequent enactments, amendments and substitutions relating to that provision and to any regulations made under it.

4 Social Work England’s Obligations

* 1. Social Work England will comply with the payment provisions of Schedule 2 provided that the Contractor has:
		1. completed the Services in accordance with the provisions set out in Schedule 1 to the satisfaction of Social Work England; and
		2. submitted full and accurate information and documentation as required by Schedule 2.

5 Changes to the Social Work England’s Requirements

* 1. Social Work England shall notify the Contractor of any material change to Social Work England’s requirement under this Contract.
	2. The Contractor shall use its best endeavours to accommodate any changes to the needs and requirements of Social Work England provided that it shall be entitled to payment for any additional costs it incurs as a result of any such changes. The amount of such additional costs to be agreed between the Parties in writing.
	3. Any change to this Contract will not be deemed as effective unless it is completed in accordance with Clause 19.

6 Management

* 1. The Contractor shall promptly comply with all reasonable requests or directions of the Contract Manager in respect of the Services.
	2. The Contractor shall address any enquiries about procedural or contractual matters in writing to the Contract Manager. Any correspondence relating to this Contract shall quote the reference number set out in the Recitals to this Contract.

7 Contractor Personnel and Sub-Contractors

* 1. Where the Contractor enters into an agreement with a third party for the purpose of performing all and/or part of its obligations under the Contract (“**Sub-contractor**”), it shall ensure prompt payment in accordance with this Clause 7.1. Unless otherwise agreed by Social Work England in writing, the Contractor shall ensure that any agreement requiring payment to a Sub-contractor shall provide for undisputed sums due to the Sub-contractor to be made within a specified period from the receipt of a valid invoice not exceeding:
		1. 10 days, where the Sub-contractor is an SME; or
		2. 30 days either, where the Sub-contractor is not an SME, or both the Contractor and the Sub-contractor are SMEs.

The Contractor shall comply with such terms and shall provide, at Social Work England’s request, sufficient evidence to demonstrate compliance with this Clause 7.1.

* 1. Social Work England shall be entitled to withhold payment due under Clause 7.1 for so long as the Contractor, in Social Work England’s reasonable opinion, has failed to comply with its obligations to pay any Sub-contractors promptly in accordance with Clause 7.1. For the avoidance of doubt Social Work England shall not be liable to pay any interest or penalty associated with late payment, when such payment is withheld in accordance with this Clause 7.2.
	2. The Contractor shall take all reasonable steps to satisfy itself that the Contractor Personnel (including any Sub-contractor personnel) are suitable in all respects to perform the Services.
	3. The Contractor shall give to Social Work England if so requested a list of all persons who are or may be at any time directly concerned with the performance of this Contract specifying the capacity in which they are concerned with the provision of the Services and giving such other particulars as Social Work England may reasonably require.
	4. If Social Work England notifies the Contractor that it considers that any Contractor Personnel and/or Sub-contractor is not appropriately qualified or trained to provide the Services or otherwise is not providing the Services in accordance with this Contract, then the Contractor shall, as soon as is reasonably practicable, take all such steps as Social Work England considers necessary to remedy the situation or, if so required by Social Work England, shall remove the said Contractor Personnel and/or Sub-contractor from providing the Services.
	5. Following any such removal as referenced in Clause 7.5, the Contractor agrees that it shall provide a suitable replacement at no cost to Social Work England.
	6. The Contractor shall take all reasonable steps to avoid changes of Contractor Personnel and/or Sub-contractors assigned to and accepted to provide the Services under the Contract; except whenever changes are unavoidable or of a temporary nature. The Contractor shall give at least one month's written notice to the Contract Manager of any proposal(s) to change any key Contractor Personnel and/or Sub-contractors.
	7. The Contractor shall immediately notify Social Work England if they have any concerns regarding the propriety of any of its Sub-contractors in respect of the Services rendered in connection with this Contract.
	8. The Contractor Personnel (including any Sub-contractor personnel), whilst on the Premises, shall comply with such rules, regulations and requirements (including those relating to security arrangements) as may be in force from time to time.
	9. The Contractor shall ensure the security of all the Property whilst in its possession, during the supply of the Services, in accordance with Social Work England’s reasonable security requirements as required from time to time.
	10. In addition to any other management information requirements set out in this Contract, the Contractor agrees and acknowledges that it shall, on request and at no charge, provide timely, full, accurate and complete SME Management Information (MI) Reports to Social Work England including:
		1. the total contract revenue received directly on a specific contract;
		2. the total value of sub-contracted revenues under the contract (including revenues for non-SMEs/non-VCSEs); and
		3. the total value of sub-contracted revenues to SMEs and VCSEs.

8 Intellectual Property Rights

* 1. It is acknowledged and agreed between the Parties that all existing or future Social Work England’s Intellectual Property Rights shall vest in Social Work England absolutely.
	2. Any Intellectual Property Rights of the Contractor which are in existence at the date of this Contract and which are comprised in or necessary for or arising from the performance of the Services owned by the Contractor ("**Background Intellectual Property**") shall remain in the ownership of the Contractor but in consideration of the fees payable pursuant to this Contract, the Contractor hereby grants to Social Work England in respect of such Background Intellectual Property an irrevocable, non-exclusive, royalty-free, perpetual licence with rights to grant sub-licences.
	3. The Contractor agrees that at the request and cost of Social Work England it will and procure that its officers, employees and agents will at all times do all such reasonable acts and execute all such documents as may be reasonably necessary or desirable to ensure that Social Work England receives the full benefit of all of its rights under this Contract in respect of Social Work England’s Intellectual Property Rights or to assist in the resolution of any question concerning the Intellectual Property Rights.
	4. The Contractor hereby waives any Moral Rights as defined at Chapter IV of the Copyright, Designs and Patents Act 1988.
	5. The Contractor warrants:
		1. that Social Work England's Intellectual Property Rights comprise the original work of and were created by or on behalf of the Contractor;
		2. that Social Work England's Intellectual Property Rights have not and will not be copied wholly or in part from any other work or material;
		3. that the use of or exercise by Social Work England of Social Work England's Intellectual Property Rights and the Background Intellectual Property will not infringe the rights of any third party;
		4. that the Contractor has not granted or assigned any rights of any nature in Social Work England's Intellectual Property Rights to any third party.
	6. The Contractor shall ensure that any copyright materials produced by or on behalf of Social Work England shall be marked with the following copyright notice "© Social Work England Copyright 20\*\*”, with \*\* representing the relevant year in which the copyright materials where produced.

9 Warranty and Indemnity

* 1. The Contractor warrants to Social Work England that the obligations of the Contractor under this Contract will be performed by appropriately qualified and trained personnel with reasonable skill, care and diligence and to such high standards of quality as it is reasonable for Social Work England to expect in all the circumstances. Social Work England will be relying upon the Contractor's skill, expertise and experience in the performance of the Services and also upon the accuracy of all representations or statements made and the advice given by the Contractor in connection with the performance of the Services and the accuracy of any documents conceived, originated, made or developed by the Contractor as part of this Contract. The Contractor warrants that any goods supplied by the Contractor forming a part of the Services will be of satisfactory quality and fit for their purpose and will be free from defects in design, material and workmanship.
	2. Without prejudice to any other remedy, if any part of the Services is not performed in accordance with this Contract then Social Work England shall be entitled, where appropriate to:
		1. require the Contractor promptly to re-perform or replace the relevant part of the Services without additional charge to Social Work England; or
		2. assess the cost of remedying the failure (the “**Assessed Cost**”) and to deduct from any sums due to the Contractor the Assessed Cost for the period that such failure continues.
	3. The Contractor shall be liable for and shall indemnify Social Work England in full against any expense, liability, loss, claim or proceedings arising under statute or at common law in respect of personal injury to or death of any person whomsoever or loss of or damage to property whether belonging to Social Work England or otherwise arising out of or in the course of or caused by the provision of the Services.
	4. The Contractor shall be liable for and shall indemnify Social Work England against any expense, liability, loss, claim or proceedings arising as a result of or in connection with any breach of the terms of this Contract or otherwise through the default of the Contractor.
	5. All property of the Contractor whilst on the Premises shall be there at the risk of the Contractor and Social Work England shall accept no liability for any loss or damage howsoever occurring to it.
	6. The Contractor shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this Contract or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with this Contract. The Contractor shall upon request produce to Social Work England, its policy or policies of insurance, together with the receipt for the payment of the last premium in respect of each policy or produce documentary evidence that the policy or policies are properly maintained.

10 Termination

* 1. This Contract may be terminated by either Party without cause giving to the other Party at least [30] days’ notice in writing.
	2. In the event of any breach of this Contract by either Party, the other Party may serve a notice on the Party in breach requiring the breach to be remedied within a period specified in the notice which shall be reasonable in all the circumstances. If the breach has not been remedied by the expiry of the specified period, the Party not in breach may terminate this Contract with immediate effect by notice in writing.
	3. In the event of a material breach of this Contract by either Party, the other Party may terminate this Contract with immediate effect by notice in writing.
	4. This Contract may be terminated by Social Work England with immediate effect by notice in writing if at any time:
		1. the Contractor passes a resolution that it be wound-up or that an application be made for an administration order or the Contractor applies to enter into a voluntary arrangement with its creditors;
		2. a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Contractor's property, assets or any part thereof;
		3. or the court orders that the Contractor be wound-up or a receiver of all or any part of the Contractor's assets be appointed;
		4. or the Contractor is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986;
		5. there is a change in the legal or beneficial ownership of 50% or more of the Contractor's share capital issued at the date of this Contract or there is a change in the Control of the Contractor, unless the Contractor has previously notified Social Work England in writing;
		6. the Contractor is convicted (or being a company, any officers or representatives of the Contractor are convicted) of a criminal offence related to the business or professional conduct;
		7. the Contractor commits (or being a company, any officers or representatives of the Contractor commit) an act of grave misconduct in the course of the business;
		8. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil its obligations relating to the payment of Social Security contributions;
		9. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to fulfil its obligations relating to payment of taxes; and/or
		10. the Contractor fails (or being a company, any officers or representatives of the Contractor fail) to disclose any serious misrepresentation in supplying information required by Social Work England in or pursuant to this Contract.
	5. Nothing in this Clause 10 shall affect the coming into, or continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force upon termination of this Contract.

11 Status of Contractor

* 1. In carrying out its obligations under this Contract the Contractor agrees that it will be acting as principal and not as the agent of Social Work England.
	2. The Contractor shall not say or do anything that may lead any other person to believe that the Contractor is acting as the agent of Social Work England.

12 Confidentiality, Transparency and Publicity

* 1. Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:
		1. treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
		2. not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
	2. Clause12 shall not apply to the extent that:
		1. such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information;
		2. such Information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
		3. such Information was obtained from a third party without obligation of confidentiality;
		4. such Information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or
		5. it is independently developed without access to the other party's Confidential Information.
	3. The Contractor may only disclose Social Work England's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Services and who need to know the Information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.
	4. The Contractor shall not, and shall procure that the Contractor Personnel do not use any of Social Work England's Confidential Information received otherwise than for the purposes of this Contract.
	5. The Contractor shall ensure that Contractor Personnel are aware of the Contractor’s obligations under this Contract.
	6. The Contractor will maintain physical and IT security that follows Good Industry Practice to ensure there is no unauthorised access to Social Work England’s Confidential Information and data.
	7. Nothing in this Contract shall prevent Social Work England from disclosing the Contractor's Confidential Information:
		1. on a confidential basis to any Central Government Body for any proper purpose of Social Work England or of the relevant Central Government Body;
		2. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
		3. to the extent that Social Work England (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
		4. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 12.6.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
		5. on a confidential basis for the purpose of the exercise of its rights under this Contract, including audit rights, step-in rights and exit management rights;
		6. on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract.
	8. Social Work England shall use all reasonable endeavours to ensure that any Central Government Body, Contracting Department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to Clause 12 is made aware of Social Work England's obligations of confidentiality.
	9. Nothing in this Clause 12 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
	10. 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. Social Work England 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.
	11. Subject to Clause 12.9, the Contractor hereby gives its consent for Social Work England to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.
	12. Social Work England may consult with the Contractor to inform its decision regarding any redactions, but Social Work England shall have the final decision in its absolute discretion.
	13. The Contractor shall assist and cooperate with Social Work England to enable Social Work England to publish this Contract.
	14. The Contractor will not do or fail to do anything which may damage the public reputation of Social Work England under this Contract, or otherwise. Social Work England may terminate this Contract for material breach if the Contractor causes material adverse publicity relating to or affecting Social Work England.
	15. The Contractor will not make any press announcements about this Contract without Social Work England’s written approval, which will not unreasonably be withheld.

13 Freedom of Information

* 1. The Contractor acknowledges that Social Work England is subject to the requirements of the FOIA and shall assist and cooperate with Social Work England to enable Social Work England to comply with its information disclosure obligations.
	2. The Contractor shall and shall procure that its Sub-contractors shall:
		1. transfer to Social Work England all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
		2. provide Social Work England with a copy of all Information in its possession, or power in the form that Social Work England requires within five Working Days (or such other period as Social Work England may specify) of Social Work England’s request; and
		3. provide all necessary assistance as reasonably requested by Social Work England to enable Social Work England to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA.
	3. Social Work England shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other agreement whether any Information is exempt from disclosure in accordance with the provisions of the FOIA.
	4. In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by Social Work England.
	5. The Contractor acknowledges that (notwithstanding the provisions of Clause 13) Social Work England may, acting in accordance with the Ministry of Justice’s Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (**“the Code”**), be obliged under the FOIA, to disclose information concerning the Contractor or the Project:
		1. in certain circumstances without consulting the Contractor; or
		2. following consultation with the Contractor and having taken their views into account;

provided always that where sub-Clause 13.5.1 applies Social Work England shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor’s attention after any such disclosure.

* 1. The Contractor shall ensure that all Information is retained for disclosure and shall permit Social Work England to inspect such records as requested from time to time.

14 Access and Information

1. The Contractor shall provide access at all reasonable times to Social Work England's internal auditors or other duly authorised staff or agents to inspect such documents as Social Work England considers necessary in connection with this Contract and where appropriate speak to Contractor Personnel.

15 Transfer of Responsibility on Expiry or Termination

* 1. The Contractor shall, at no cost to Social Work England, promptly provide such assistance and comply with such timetable as Social Work England may reasonably require for the purpose of ensuring an orderly transfer of responsibility upon the expiry and/or other termination of this Contract. Social Work England shall be entitled to require the provision of such assistance both prior to and, for a reasonable period of time after the expiry or other termination of this Contract.
	2. Such assistance may include (without limitation) the delivery of documents and data in the possession or control of the Contractor which relate to this Contract, including the documents and data, if any, referred to in the Schedules.
	3. The Contractor undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of Social Work England to ensure an orderly transfer of responsibility.

16 Force Majeure

* 1. A Party will not be in breach of this Contract or otherwise liable to the other Party for any failure to perform or delay in performing its obligations under this Contract to the extent that such failure or delay is solely due to a Force Majeure Event and, where that party is the Contractor:
		1. the impact of that Force Majeure Event could not have reasonably been avoided or prevented by the Contractor; and
		2. the Contractor has complied withClause 16.2**.**
	2. If a Force Majeure Event occurs which affects the Contractor, the Contractor will:
		1. promptly upon becoming aware of the Force Majeure Event give written notice to the Customer setting out details of the nature, extent and anticipated duration of the Force Majeure Event, the expected impact of the Force Majeure Event on its ability to perform its obligations and the steps it is taking and/or proposes to take to comply with sub-Clause 16.2.2;
		2. use its reasonable endeavours to mitigate the effects of the Force Majeure Event, to continue to perform the affected obligations notwithstanding the occurrence of the Force Majeure Event and to ensure that the Force Majeure Event comes to an end, including taking such steps as may be reasonably required by the Customer; and
		3. continue to perform all of its obligations under this Contract the performance of which are not affected by the Force Majeure Event.

17 Tax Indemnity

* 1. Where the Contractor is liable to be taxed in the UK in respect of consideration received under this Contract, it shall at all times comply with the income tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration. Where Social Work England has deemed the Contractor to be an off-payroll Contractor (as defined by Her Majesty’s Revenue and Customs (HMRC)), Social Work England reserves the right to calculate income tax and pay it to HMRC. The amounts will be deducted from the Contractor’s fee for the Services provided.
	2. Where the Contractor is liable to national insurance contributions (NICs) in respect of consideration received under this Contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration. Where Social Work England has deemed the Contractor to be an off-payroll Contractor (as defined by Her Majesty’s Revenue and Customs), Social Work England reserves the right to calculate primary (employee) NICs and pay them to HMRC. The amounts will be deducted from the Contractor’s fee for the Services provided.
	3. Social Work England may, at any time during the term of this Contract, ask the Contractor to provide evidence which demonstrates how the Contractor complies with Clauses 17.1 and 17.2 above or why those Clauses do not apply to it.
	4. A request under Clause 17.3 above may specify the type of evidence which the Contractor must provide and the period within which that evidence must be provided.
	5. Social Work England may terminate this contract if:
		1. in the case of a request mentioned in Clause 17.3 above if the Contractor:
			1. fails to provide evidence in response to the request within a reasonable time, or
			2. provides evidence which is inadequate to demonstrate either how the Contractor complies with Clauses 17.1 and 17.2 above or why those Clauses do not apply to it;
		2. in the case of a request mentioned in Clause 17.4 above, the Contractor fails to provide the specified evidence within the specified period, or
		3. it receives evidence which demonstrates that, at any time when Clauses 17.1 and 17.2 apply, the Contractor is not complying with those Clauses.
	6. Social Work England may supply any evidence which it receives under Clause 17.3 to the Commissioners of HMRC for the purpose of the collection and management of revenue for which they are responsible.
	7. The Contractor warrants and represents to Social Work England that it is an independent contractor and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Contract or in relation to any payments made by the Contractor to any Contractor Personnel in connection with this Contract.
	8. The Contractor will account to the appropriate authorities for any income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Contractor under this Contract or in relation to any payments made by the Contractor to any Contractor Personnel in connection with this Contract.
	9. The Contractor shall indemnify Social Work England against any liability, assessment or claim made by HMRC or any other relevant authority arising out of the performance by the Parties of their obligations under this Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by Social Work England in connection with any such assessment or claim.
	10. The Contractor authorises Social Work England to provide HMRC and any other relevant authority with any evidence which they may request as to fees and/or expenses paid or due to be paid under this Contract whether or not Social Work England is obliged as a matter of Law to comply with such request.

18 Data Protection

* 1. The Contractor shall ensure that is has in place adequate and appropriate technical and contractual measures to ensure the security of Social Work England’s data (including Personal Data) and to guard against any unauthorised or unlawful Processing of Personal Data and any accidental loss or destruction of, or damage to, Social Work England’s data.
	2. 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 3. The only Processing that the Processor is authorised to do is listed in Schedule 3 by the Controller and may not be determined by the Processor.
	3. The Processor must comply with the Controller’s written instructions in respect to the Processing of Personal Data; the Processor must process Personal Data and ensure that the Processor Personnel process Personal Data only in accordance with the terms of this Contract.
	4. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
	5. 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:
		1. a systematic description of the envisaged Processing operations and the purpose of the Processing;
		2. an assessment of the necessity and proportionality of the Processing operations in relation to the Services;
		3. an assessment of the risks to the rights and freedoms of Data Subjects; and
		4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
	6. The Processor shall, in relation to any Personal Data Processed in connection with its obligations under this Contract:
		1. Process that Personal Data only in accordance with Schedule 3, 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;
		2. 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:
			1. nature of the data to be protected;
			2. harm that might result from a Data Loss Event;
			3. state of technological development; and
			4. cost of implementing any measures;
		3. ensure that:
			1. the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular Schedule 3);
			2. 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:
				1. are aware of and comply with the Processor’s duties under this Contract, Clauses 18 (Data Protection), 12 (Confidentiality, Transparency and Publicity) and 13 (Freedom of Information);
				2. are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;
				3. 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 Contract; and
				4. have undergone adequate training in the use, care, protection and handling of Personal Data;
		4. 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:
			1. 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;
			2. the Data Subject has enforceable rights and effective legal remedies;
			3. 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
			4. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the Processing of the Personal Data; and
		5. at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.
	7. Subject to Clause 18.8, the Processor shall notify the Controller immediately if in relation to it Processing Personal Data under or in connection with the Contract it:
		1. receives a Data Subject Request (or purported Data Subject Request);
		2. receives a request to rectify, block or erase any Personal Data;
		3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
		4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
		5. receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
		6. becomes aware of a Data Loss Event.
	8. The Processor’s obligation to notify under Clause 18.7 shall include the provision of further information to the Controller in phases, as details become available.
	9. 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 18.7 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
		1. the Controller with full details and copies of the complaint, communication or request;
		2. 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;
		3. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
		4. assistance as requested by the Controller following any Data Loss Event; and/or
		5. 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.
	10. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 18. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
		1. the Controller determines that the Processing is not occasional;
		2. the Controller determines the Processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
		3. the Controller determines that the Processing is likely to result in a risk to the rights and freedoms of Data Subjects.
	11. The Processor shall allow for audits of its Data Processing activity (including the right of inspection) by the Controller or the Controller’s designated auditor.
	12. Each Party shall designate its own Data Protection Officer if required by the Data Protection Legislation.
	13. Before allowing any Sub-processor to Process any Personal Data related to this Contract, the Processor must:
		1. notify the Controller in writing of the intended Sub-processor and Processing;
		2. obtain the written consent of the Controller;
		3. enter into a written agreement with the Sub-processor which give effect to the terms set out in this Clause 18 such that they apply to the Sub-processor; and
		4. provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
	14. The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
	15. The Controller may, at any time on not less than 30 Working Days’ notice, revise this Clause 18 by replacing it with any applicable Controller to Processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
	16. 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 Contract to ensure that it complies with any guidance issued by the Information Commissioner’s Office.

19 Amendment and Variation

* 1. No amendment or variation to this Contract shall be effective unless it is in writing and signed by or on behalf of each of the Parties hereto. The Contractor shall comply with any formal procedures for amending or varying contracts which Social Work England may have in place from time to time.
	2. If either Party cannot agree to or provide a proposed variation, Social Work England may agree to continue performing its obligations under this Contract without the variation, or terminate this Contract by giving [30] days’ notice to the Contractor.

20 Assignment and Sub-contracting

* 1. The benefit and burden of this Contract may not be assigned or Sub-contracted in whole or in part by the Contractor without the prior written consent of Social Work England. Such consent may be given subject to any conditions which Social Work England considers necessary. Social Work England may withdraw its consent to any Sub-contractor where it no longer has reasonable grounds to approve of the Sub-contractor or the sub-contracting arrangement and where these grounds have been presented in writing to the Contractor.

21 The Contract (Rights of Third Parties) Act 1999

* 1. This Contract is not intended to create any benefit, claim or rights of any kind whatsoever enforceable by any person not a party to the Contract.

22 Waiver

* 1. No delay by or omission by either Party in exercising any right, power, privilege or remedy under this Contract shall operate to impair such right, power, privilege or remedy or be construed as a waiver thereof. Any single or partial exercise of any such right, power, privilege or remedy shall not preclude any other or further exercise thereof or the exercise of any other right, power, privilege or remedy.

23 Notices

* 1. Any notice, demand or communication in connection with the Contract shall be in writing and delivered electronically via e-mail, addressed to the Contract Manager of the respective Party (or such other e-mail address as may be notified in writing from time to time).
	2. The notice, demand or communication shall be deemed to have been duly service if at the time of transmission, the notice is sent to the correct e-mail address, and is delivered without any error message, or, in the case of transmission by e-mail where the time of transmission is not between 08:00 am and 18:00 pm, service shall be deemed to occur at 08:00 am on the next following Working Day (such times being local time at the address of the recipient).
1. Dispute resolution
	1. The Parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the continuance of this Contract.
	2. Any dispute not capable of resolution by the Parties in accordance with the terms of Clause 24 shall be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) Model Mediation Procedure.
	3. No Party may commence any court proceedings/arbitration in relation to any dispute arising out of this Contract until they have attempted to settle it by mediation, but any such mediation may be terminated by either Party at any time of such party wishing to commence court proceedings/arbitration.

25 Discrimination

* 1. The Contractor shall not unlawfully discriminate within the meaning and scope of any Law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.
	2. The Contractor shall take all reasonable steps to secure the observance of Clause 25.1 by all Contractor Personnel (including Sub-contractors) involved in the delivery of Services under this Contract.
1. Transfer of Undertakings (Protection of Employment) – (TUPE)

The Customer and the Contractor believe that the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) do not apply to this Contract

27 Law and Jurisdiction

27.1 This Contract shall be governed by and Interpreted in accordance with the Laws of England and Wales and the Parties submit to the exclusive jurisdiction of the courts of England and Wales and for all disputes to be conducted within England and Wales.

1. Signed for and on behalf of Social Work England by an authorised representative:
**Colum Conway – Chief Executive and Accounting Officer**

Signature of director

Date: \*\*/\*\*/202\*

1. Signed for and on behalf of [NAME OF COMPANY] by an authorised representative:
**Name – Title**

Signature of director/officer

Date: \*\*/\*\*/202\*

# Schedule 1 – Services

Background

Add ITT/Specification and further details of the requirement.

Schedule of Work

To be agreed at contract commencement. If procured via a formal ITT, incorporate the bid response within this section.

# Schedule 2 – Costs

To be agreed at contract commencement.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Task/Milestone** | **Net Cost** | **VAT**  | **Gross Cost** | **Invoice Dates** |
|  | £ | £ | £ |  |
|  | £ | £ | £ |  |
|  | £ | £ | £ |  |
|  | £ | £ | £ |  |
|  | £ | £ | £ |  |
|  |  |  |  |  |
| **Total Costs** | **£** | **£** | **£** |  |

1 The Contractor shall maintain full and accurate accounts for the Service against the expenditure headings in the Table. Such accounts shall be retained for at least 6 years after the end of the financial year in which the last payment was made under this Contract. Input and output VAT shall be included as separate items in such accounts.

2 The Contractor shall permit duly authorised staff or agents of Social Work England or the National Audit Office to examine the accounts at any reasonable time and shall furnish oral or written explanations of the account if required. Social Work England reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Contractor has used Social Work England's resources in the performance of this Contract.

3 Invoices shall be prepared by the Contractor on the invoice dates specified in the Table in arrears and shall be detailed against the expenditure headings set out in the Table. The Contractor or its nominated representative or accountant shall certify on the invoice that the amounts claimed were expended wholly and necessarily by the Contractor on the Service in accordance with the Contract and that the invoice does not include any costs being claimed from any other body or individual or from Social Work England within the terms of another contract.

4 Invoices shall be sent, electronically to invoices@socialworkengland.org.uk on [ENTER INFORMATION]. Social Work England operate a ‘no PO – no pay’ policy, and as such, all invoices **must** include a valid purchase order number. The purchase order reference for this Contract is – PO-S000\*\*\*. Social Work England is obliged to pay invoices within 30 days of receipt from the day electronic arrival at the nominated address of Social Work England. Any correctly submitted invoices that are not paid within 30 days will be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998.

5 A correct invoice is one that:

* is delivered in timing in accordance with the contract;
* is for the correct sum in respect of goods/services supplied or delivered to the required quality (or are expected to be at the required quality);
* includes the date, supplier name, contact details and bank details;
* quotes the relevant purchase order
* quotes the relevant contract reference; and,
* has been delivered to the nominated address (electronically).

 If any problems arise, contact Social Work England’s Contract Manager. Social Work England aims to reply to complaints within 10 Working Days. Social Work England shall not be responsible for any delay in payment caused by incomplete or illegible invoices.

6 The Contractor shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in Social Work England's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, Social Work England shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in Social Work England's reasonable opinion after consultation with the Contractor, would reasonably have been required for that purpose.

7 If this Contract is terminated by Social Work England due to the Contractors insolvency or default at any time before completion of the Services, Social Work England will only be liable to reimburse eligible payments made by, or due to, the Contractor before the date of termination.

8On completion of the Services or on termination of this Contract, the Contractor shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred for the Services. The final invoice shall be submitted not later than 30 days after the date of completion of the Services.

9 Social Work England shall not be obliged to pay the final invoice until the Contractor has carried out all the elements of the Services as specified in Schedule 1.

10 It shall be the responsibility of the Contractor to ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by Social Work England all amounts due to be reimbursed under this Contract shall be deemed to have been paid and Social Work England shall have no further liability to make reimbursement of any kind.

# Schedule 3 – Processing Personal Data

To be agreed prior to contract signature.

This Schedule shall be completed by the Controller, who may take account of the view of the Processor, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Controller’s Data Protection Officer are: Greg Lawton (Head of Data Protection and Information Governance). Email for notices – DPO@socialworkengland.org.uk.
2. The contact details of the Processor’s Data Protection Officer are: [NAME (TITLE). Email for notices – [INSERT EMAIL ADDRESS].
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

|  |  |
| --- | --- |
| Description  | Details  |
| Identity of the Controller and Processor | **The Customer is Controller and the Supplier is Processor** The Parties acknowledge that in accordance with Clause 18 and for the purposes of the Data Protection Legislation, the Customer is the Controller, and the Contractor is the Processor of the following Personal Data:* All Personal Data which the Contractor will Process (whether directly shared by the Customer, or indirectly Processed) in the provision of the Services pursuant to this Contract.
 |
| Duration of the Processing  | [Clearly set out the duration of the Processing including dates]. |
| Nature and purposes of the processing  | [Please be as specific as possible, but make sure that you cover all intended purposes].The nature of the Processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means), etc.[The purpose might include: employment Processing, statutory obligation, recruitment assessment etc]. |
| Type of Personal Data  | [Enter type of Personal Data. Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]. |
| Categories of Data Subject  | [Enter categories. Examples here include: Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]. |
| Plan for return and destruction of the data once the Processing is complete UNLESS requirement under union or member state law to preserve that type of data  | [Describe how long the data will be retained for, how it be returned or destroyed]. |