

# GLA Contract Ref GLA 82052SERVICES AGREEMENT

THIS AGREEMENT is made on 04<sup>th</sup> October 2022

## BETWEEN:

**GREATER LONDON AUTHORITY**, having its registered office at City Hall, Kamal Churchie Way, London, E16 1ZE (**Employer**)

And

**AVC WISE LIMITED**, registered in England and Wales with company number 11406613 and having its registered office at 5 Margaret Road, Romford, Essex, RM2 5SH (**Provider**).

## WHEREAS:

The Parties wish to enter into agreement whereby the Provider shall provide agreed Services to the Employer subject to the terms and conditions of this Agreement.

## IT IS AGREED AS FOLLOWS:

### 1 DEFINITIONS

- 1.1 Unless the context otherwise requires, words in the singular include the plural and vice versa, references to any gender shall include the other gender, references to a person includes bodies corporate and to unincorporated bodies or persons, and references to a party or parties shall be to a party or parties to this Agreement.
- 1.2 Headings are for ease of reference only and are not intended to form part, or to affect the meaning or interpretation, of any of the provisions of this Agreement.
- 1.3 References to Schedules entered into are pursuant to this Agreement. In any event of conflict between their respective terms, the order of precedence will be the Schedule and then the main body of this Agreement.
- 1.4 References to a party shall include the party, any successor in title and any permitted assignees from time to time.
- 1.5 In this Agreement, unless inconsistent with the context or otherwise specified, the following expressions shall have the following meanings:
  - “**Application**” means a request for a Shared Cost AVC made by an Employee on the Technology System;
  - “**AVC**” means Additional Voluntary Contribution to the Local Government Pension Scheme;
  - “**AVC Investment Providers**” means the company that is contracted by the Employer to provide the investment funds for AVCs;
  - “**Business Day**” means a day other than a Saturday, Sunday or public holiday in England when banks in London are open for business;
  - “**Commencement Date**” means the date on which the Provider commences the provision of services to the Employer. This date is the date of the import of the employee data onto the Technology System;
  - “**Charges**” means the charges payable by the Employer for the supply of the Services by the Provider, based on the salary sacrificed by Employees as set out in Schedule 2;

**“Confidential Information”** means any information in whatever form (including, without limitation, in written or oral, and wherever located) relating to the business, affairs and finances of the disclosing party and trade secrets including, without limitation, technical data and know-how relating to the business of the disclosing party or any of its suppliers, clients, customers, agents, or distributors, whether or not such information (if in anything other than oral form) is marked confidential;

**“Data Controller”** shall have the meaning set out in the Data Protection Legislation;

**“Data Loss Event”** means a personal data breach within the meaning of GDPR Article 4(12);

**“Data Processor”** shall have the meaning set out in the Data Protection Legislation;

**“Data Subject”** shall have the meaning set out in the Data Protection Legislation;

**“Data Protection Legislation”** means the Data Protection Act (DPA) 2018 and the General Data Protection Regulation (EU Regulation 2016/679) (GDPR) and the Privacy and Electronic Communications Regulations 2003 (PECR) to the extent that they relate to processing of personal data and privacy, and all applicable laws and regulations relating to processing of personal data and privacy including where applicable the guidance and codes of practice issued by the Information Commissioner, in each case, to the extent in force, and as such are updated, amended or replaced from time to time, including any successor legislation to the GDPR, the DPA or the PECR;

**“Destruction Certificate”** means a document confirming destruction of data previously held by the Provider;

**“Discretions Policy”** means written statement relating to certain discretionary powers under the Regulations which apply to the Local Government Pension Scheme;

**“EIRs”** means the Environmental Information Regulations 2004;

**“Employee”** means any person who is employed by the Employer under a contract of services or a contract of employment;

**“Employer Materials”** means any item or property belonging to the Employer that has been supplied to the Provider and any Marketing Materials created for the Employer by the provider;

**“FOIA”** means the Freedom of Information Act 2000;

**“Fully Managed Solution”** means the full list of services defined in Schedule 1;

**“Marketing Activities”** means any activities carried out by the Employer or Provider to advertise or promote services detailed in Schedule 1;

**“Marketing Materials”** means any marketing material that the Provider may produce from time to time for use in connection with the Marketing Activities;

**“Personal Data”** shall have the meaning set out in the Data Protection Legislation;

**“Provider Intellectual Property Rights”** means the AVC Wise name, logo, website and any other item where the Provider has rights of ownership or to use;

**“Shared Cost AVC”** means an AVC that is jointly funded by the employer and the Employee;

**“Technology System”** means the information technology system developed by the Provider to support the delivery of Services;

**“Term”** means the term of this Agreement.

## **2 DURATION & TERM**

2.1 This Agreement shall take effect upon the Commencement Date.

2.2 Subject to the provisions for earlier termination (as set out in clause 11.1), this Agreement will remain in force for a period of 36 months from the Commencement Date (the Initial Period) and will continue thereafter until terminated.

- 2.3 Either party may end this Agreement by giving a minimum of three months' notice to the other party provided the end date of the Agreement is after last day of the Initial Period.

### **3 SERVICES TO BE PROVIDED**

- 3.1 The Provider will supply Services to the Employer as set out in Schedule 1 in accordance with the terms and conditions of this Agreement.
- 3.2 In supplying the Services, the Provider shall:
- 3.2.1 perform the Services with the highest level of care, skill and diligence in accordance with best practice in the Provider's industry, profession or trade;
  - 3.2.2 use best endeavours to perform the Services in accordance with the service description set out in Schedule 1;
  - 3.2.3 comply with all applicable laws, statutes, regulations [and codes] from time to time in force including, but not limited to, the Human Rights Act 1998 and the Equality Act 2010;
  - 3.2.4 observe all reasonable health and safety rules and regulations and security requirements that apply at any of the Employer's premises and have been communicated to the Provider, provided that the Provider shall not be liable under the Agreement if, as a result of such observation, it is in breach of any of its obligations under the Agreement;
  - 3.2.5 take reasonable care of all Employer Materials in its possession and make them available for collection by the Employer on reasonable notice and request, always provided that the Provider may destroy the Employer Materials if the Employer fails to collect the Employer Materials within a reasonable period after termination of the Agreement, given notice of such intention by the Provider;
  - 3.2.6 only use personnel who are suitably skilled and experienced to perform the tasks assigned to them, and in sufficient number to ensure that the Provider's obligations are fulfilled.

### **4 EMPLOYER'S OBLIGATIONS**

- 4.1 The Employer shall:
- 4.1.1 co-operate to a reasonable extent with the Provider in all matters relating to the Services;
  - 4.1.2 provide, for the Provider in a timely manner and at no charge, access to the Employer's premises, office accommodation, data (for the purpose of data processing as set out in Schedule 3) and other facilities as reasonably required by the Provider;
  - 4.1.3 provide, in a timely manner, such information as the Provider may reasonably require, and ensure that it is accurate and complete in all material respects.
- 4.2 If the Provider's performance of its obligations under the Agreement is prevented or delayed by any act or omission of the Employer, the Provider shall:
- 4.2.1 not be liable for any costs, charges or losses sustained or incurred by the Employer that arise directly from such prevention or delay; and
  - 4.2.2 be entitled to payment of the Charges despite any such prevention or delay.

### **5 INTELLECTUAL PROPERTY**

- 5.1 The Provider and its licensors shall retain ownership of all Provider Intellectual Property Rights. The Employer and its licensors shall retain ownership of all Intellectual Property Rights in the Employer Materials.

- 5.2 The Provider grants the Employer, or shall procure the direct grant to the Employer of, a fully paid-up, worldwide, non-exclusive, royalty-free, licence to copy the Provider Intellectual Property Rights for the purpose of receiving and using the Services in the Employer's business during the term of the Agreement.
- 5.3 The Employer grants the Provider a fully paid-up, worldwide, non-exclusive, royalty-free, non-transferable licence to copy and modify the Employer Materials for the term of the Agreement for the purpose of providing the Services to the Employer in accordance with the Agreement.

## **6 CHARGES AND PAYMENT**

- 6.1 In consideration for the provision of the Services, the Employer shall pay the Provider the Charges in accordance with Schedule 2.
- 6.2 All amounts payable by the Employer exclude amounts in respect of value added tax (VAT), which the Employer shall additionally be liable to pay to the Provider at the prevailing rate (if applicable), subject to receipt of a valid VAT invoice.
- 6.3 The Provider shall submit invoices for the Charges plus VAT if applicable to the Employer at the intervals specified in Schedule 2. Each invoice shall include all reasonable supporting information required by the Employer.
- 6.4 The Employer shall pay each undisputed invoice due and submitted to it by the Provider, within 30 days of receipt, to a bank account nominated in writing by the Provider.
- 6.5 If the Employer fails to make any payment due to the Provider under the Contract by the due date for payment, then, without limiting the Provider's remedies under clause 11 (Termination):
- 6.5.1 the Employer shall pay interest on the overdue sum from the due date until payment of the overdue sum, whether before or after judgment. Interest under this clause will accrue each day at 2% a year above the Bank of England's base rate from time to time, but at 2% a year for any period when that base rate is below 0%;
- 6.5.2 the Provider may suspend all Services until payment of all undisputed amounts has been made in full.
- 6.6 All amounts due under this Agreement from the Employer to the Provider shall be paid by in full without any set-off, counterclaim, deduction or withholding (other than any deduction or withholding of tax as required by law).
- 6.7 If there is a dispute between the Parties as to the amount invoiced, the Employer shall pay the undisputed amount. The Provider shall not suspend the supply of Services to the Employer, unless the Employer has failed to pay any undisputed charges within 30 days of receipt of invoice. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 17.

## **7 INSURANCE**

- 7.1 The Provider shall at its own cost effect and maintain with a reputable insurance company a policy or policies of insurance providing, as a minimum, the following levels of cover
- 7.1.1 Public liability insurance with a limit of indemnity of not less than £10,000,000 (TEN MILLION POUNDS) in relation to any one claim arising out of each and every event without limit on the number of claims in any one year or other period and such insurance shall expressly by its terms confer its benefits on the Employer;
- 7.1.2 Employers' liability insurance with a limit of indemnity of not less than £10,000,000 (TEN MILLION POUNDS);
- 7.1.3 Professional indemnity insurance with a limit of indemnity of not less than £5,000,000 (FIVE MILLION POUNDS) in relation to any one claim or series of claims, such insurance to be held and maintained for a minimum of six years following the expiration or earlier termination of this Agreement;

- 7.2 The Provider shall ensure that all professional consultants or sub-contractors involved in the provision of the Services hold and maintain appropriate insurance cover.

## **8 CONFIDENTIALITY & DATA PROTECTION**

- 8.1 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each Party shall do each of the following:
- 8.1.1 Treat the other Party's Confidential Information as confidential and safeguard it accordingly; and
  - 8.1.2 Not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.
- 8.2 Clause 8.1 shall not apply to the extent that any one or more of the following applies to the relevant Information or disclosures:
- 8.2.1 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 or the EIRs;
  - 8.2.2 Such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;
  - 8.2.3 Such information was obtained from a third Party without obligation of confidentiality;
  - 8.2.4 Such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement;
  - 8.2.5 It is independently developed without access to the other Party's Confidential Information.
- 8.3 The Provider may only disclose the Employer's Confidential Information to the Provider's Employees who are directly involved in the provision of the Services and who need to know the Information and shall make sure that such Employees are aware of and shall comply with these obligations as to confidentiality.
- 8.4 The Provider shall not, and shall procure that the Provider's Employees do not, use any of the Employer's Confidential Information received otherwise than for the purposes of this Agreement.
- 8.5 At the written request of the Employer and if reasonable in the circumstances to make that request, the Provider shall procure that those members of the Provider's Employees identified in the Employer's notice sign a confidentiality undertaking prior to commencing any work in accordance with this Agreement.
- 8.6 Nothing in this Agreement shall prevent the Employer from disclosing the Provider's Confidential Information in any one or more of the following circumstances:
- 8.6.1 To any Crown body or any other contracting authorities as defined in Article 1 of Directive 2004/18/EC other than the Employer. All Crown bodies or such contracting authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown bodies or other contracting authorities on the basis that the information is confidential and is not to be disclosed to a third Party which is not part of any Crown body or contracting authority;
  - 8.6.2 For the purpose of the examination and certification of the Employer's accounts;
  - 8.6.3 For any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Employer has used its resources.
- 8.7 The Provider shall (and shall procure that any of its Employees involved in the provision of the Services) comply with any requirements under the Data Protection Legislation.
- 8.8 Both Parties will comply with all applicable requirements of the Data Protection Legislation. This clause 8.8 is in addition to, and does not relieve, remove or replace, a Party's obligations under the Data Protection Legislation.

- 8.9 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Employer is the Data Controller and the Provider is the Data Processor. The Data Protection Schedule (Schedule 3) sets out the subject matter, nature and purpose of processing by the Provider, the duration of the processing and the types of Personal Data and categories of Data Subject. The only processing that the Provider is authorised to do is listed in the Data Protection Schedule and may not be determined by the Provider.
- 8.10 The Provider shall notify the Employer immediately if it considers that any of the Employer's instructions infringe the Data Protection Legislation.
- 8.11 Without prejudice to the generality of clauses 8.7 and 8.8, the Employer will ensure that it has all necessary lawful bases of processing and privacy notices in place to enable lawful transfer of the Personal Data to the Provider for the duration and purposes of this Agreement.
- 8.12 The Provider shall provide all reasonable assistance to the Employer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Employer, include:
- 8.12.1 a systematic description of the envisaged processing operations and the purpose of the processing;
  - 8.12.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
  - 8.12.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
  - 8.12.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 8.13 The Provider shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
- 8.13.1 process that Personal Data only in accordance with the Data Protection Schedule, unless the Provider is required to do otherwise by law. If it is so required, the Provider shall promptly notify the Employer before processing the Personal Data unless prohibited by law;
  - 8.13.2 ensure that it has in place protective measures, which have been reviewed and approved by the Employer as appropriate to protect against a Data Loss Event having taken account of the:
    - 8.13.2.1 nature of the data to be protected;
    - 8.13.2.2 harm that might result from a Data Loss Event;
    - 8.13.2.3 state of technological development; and
    - 8.13.2.4 cost of implementing any measures; and
  - 8.13.3 ensure that:
    - 8.13.3.1 the Provider personnel do not process Personal Data except in accordance with this Agreement (and in particular the Data Protection Schedule);
    - 8.13.3.2 it takes all reasonable steps to ensure the reliability and integrity of any Provider personnel who have access to the Personal Data and ensure that they:
      - are aware of and comply with the Provider's duties under this clause;
      - are subject to appropriate confidentiality undertakings with the Provider or any sub-processor;
      - 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 Employer or as otherwise permitted by this Agreement; and

- have undergone adequate training in the use, care, protection and handling of Personal Data; and
- 8.13.4 not transfer Personal Data outside of the European Economic Area unless the prior written consent of the Employer has been obtained and the following conditions are fulfilled:
  - 8.13.4.1 the Employer or the Provider has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 45 or 46) as determined by the Employer;
  - 8.13.4.2 the Data Subject has enforceable rights and effective legal remedies;
  - 8.13.4.3 the Provider 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 Employer in meeting its obligations); and
  - 8.13.4.4 the Provider complies with any reasonable instructions notified to it in advance by the Employer with respect to the processing of the Personal Data;
- 8.13.5 at the written direction of the Employer, delete or return Personal Data (and any copies of it) to the Employer on termination of the Agreement unless the Provider is required by law to retain the Personal Data.
- 8.14 Subject to clause 8.15, the Provider shall notify the Employer immediately if it:
  - 8.14.1 receives a Data Subject Access Request (or purported Data Subject Access Request);
  - 8.14.2 receives a request to rectify, block or erase any Personal Data;
  - 8.14.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
  - 8.14.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
  - 8.14.5 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
  - 8.14.6 becomes aware of a Data Loss Event.
- 8.15 The Provider's obligation to notify under clause 8.14 shall include the provision of further information to the Employer in phases, as details become available.
- 8.16 Taking into account the nature of the processing, the Provider shall provide the Employer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 8.14 (and insofar as possible within the timescales reasonably required by the Employer) including by promptly providing:
  - 8.16.1 the Employer with full details and copies of the complaint, communication or request;
  - 8.16.2 such assistance as is reasonably requested by the Employer to enable the Employer to comply with a data subject access request within the relevant timescales set out in the Data Protection Legislation;
  - 8.16.3 the Employer, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 8.16.4 assistance as requested by the Employer following any Data Loss Event; and
  - 8.16.5 assistance as requested by the Employer with respect to any request from the Information Commissioner's Office, or any consultation by the Employer with the Information Commissioner's Office.
- 8.17 The Provider shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Provider employs fewer than 250 staff, unless:

- 8.17.1 the Employer determines that the processing is not occasional;
- 8.17.2 the Employer 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
- 8.17.3 the Employer determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 8.18 The Provider shall allow for audits of its Data Processing activity by the Employer or the Employer's designated auditor.
- 8.19 The Provider shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 8.20 Before allowing any sub-processor to process any Personal Data related to this Agreement, the Provider must:
  - 8.20.1 notify the Employer in writing of the intended sub-processor and processing;
  - 8.20.2 obtain the written consent of the Employer;
  - 8.20.3 enter into a written agreement with the sub-processor which give effect to the terms set out in this clause 8 such that they apply to the sub-processor; and
  - 8.20.4 provide the Employer with such information regarding the sub-processor as the Employer may reasonably require.
- 8.21 The Provider shall remain fully liable for all acts or omissions of any sub-processor.
- 8.22 The Employer may, at any time on not less than 30 Business Days' notice, revise this clause 8 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).
- 8.23 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Employer may on not less than 30 Business Days' notice to the Provider amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.
- 8.24 The provision of this clause 8 shall apply during the Term and indefinitely after its expiry.

## **9 FREEDOM OF INFORMATION**

- 9.1 The Provider acknowledges that the Employer is subject to the requirements of the FOIA and the EIRs. The Provider shall:
  - 9.1.1 provide all necessary assistance and cooperation as reasonably requested by the Employer to enable the Employer to comply with its obligations under the FOIA and EIRs;
  - 9.1.2 transfer to the Employer all requests for information relating to this Agreement that it receives as soon as practicable and in any event within 2 Business Days of receipt;
  - 9.1.3 provide the Employer with a copy of all information belonging to the Employer requested in the request for information which is in its possession or control in the form that the Employer requires within 5 Business Days (or such other period as the Employer may reasonably specify) of the Employer's request for such information; and
  - 9.1.4 not respond directly to a request for information unless authorised in writing to do so by the Employer.
- 9.2 The Provider acknowledges that the Employer may be required under the FOIA and EIRs to disclose information (including Confidential Information) without consulting or obtaining consent from the Provider. The Employer shall take reasonable steps to notify the Provider of a request for information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is



permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Agreement) the Employer shall be responsible for determining in its absolute discretion whether any Confidential Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs.

## **10 AUDIT**

- 10.1 The Provider shall keep and maintain until six years after the Agreement has been completed, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including:
- 10.1.1 the Services provided under it;
  - 10.1.2 all expenditure reimbursed by the Employer;
  - 10.1.3 all payments made by the Employer.
- 10.2 The Provider shall on request afford the Employer or the Employer's representatives such access to those records as may be required in connection with the Agreement.

## **11 TERMINATION**

- 11.1 In addition to the provisions contained in clause 2.2, either party may terminate this Agreement forthwith by written notice without prejudice to any accrued right or remedy of either party if:
- 11.1.1 The other party makes any voluntary arrangement with its creditors or becomes bankrupt or enters administration or goes into liquidation (otherwise than for the purposes of solvent amalgamation or reconstruction);
  - 11.1.2 A security holder takes possession, or a receiver or administrative receiver is appointed, over all or any material part of the property or assets of the other party;
  - 11.1.3 Anything analogous to any of the foregoing occurs to the other party under the law of any jurisdiction;
  - 11.1.4 The other party ceases to carry on business;
  - 11.1.5 The other party commits a material breach of any of the provisions of this Agreement and in the case of a breach capable of remedy, fails to remedy that breach within 30 days after being served with a written notice specifying the breach and requiring it to be remedied.
- 11.2 The termination of this Agreement howsoever arising will be without prejudice to the rights and duties of either party accrued prior to termination. The clauses in this Agreement, which expressly or by implication have effect after termination, will continue to be enforceable notwithstanding termination.
- 11.3 Unless otherwise agreed in writing by both parties (in the event of termination without breach by either party) or where required in writing by the terminating party (where terminating as a result of breach by the other party) all existing delivery of all Services under the Schedules will automatically terminate simultaneously with termination of this Agreement.
- 11.4 On the termination of this Agreement howsoever arising each party shall forthwith return to the other all written documents and other things on loan or free issue from the party and all copies thereof made by the receiving party which are in the receiving party's possession, custody or control as at the date of such termination.
- 11.5 Without affecting any other right or remedy available to it, the Provider may terminate the Contract with immediate effect by giving written notice to the Employer if the Employer fails to pay any undisputed amount due under the Agreement on the due date for payment.
- 11.6 On termination of the Agreement where there is no breach of this Agreement by the Provider::
- 11.6.1 the Employer shall immediately pay to the Provider all of the Provider's outstanding unpaid invoices and interest and, in respect of Services supplied but for which no

invoice has been submitted, the Provider may submit an invoice, which shall be payable within 28 days of receipt;

- 11.6.2 any provision of the Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of the Agreement shall remain in full force and effect; and
- 11.6.3 termination or expiry of the Agreement shall not affect any of the rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.

## **12 LIABILITY AND EXCLUSIONS**

- 12.1 Subject to clause 12.3 below and the obligations detailed in Schedule 1, neither party will be liable to the other (whether for breach of contract, negligence or otherwise) for any:

- 12.1.1 loss of profits;
- 12.1.2 damage to reputation;
- 12.1.3 loss of anticipated savings; or
- 12.1.4 indirect loss, damage, cost, expense, claim or other liability whatsoever;

which arises out of, or in connection with, this Agreement, although (for the avoidance of doubt) nothing in this clause is intended to limit or exclude any liability that the Employer may have for non-payment of any sums payable to the Provider under this Agreement.

- 12.2 Neither party will be liable for or be deemed to be in breach of this Agreement as a result of, any delay in performing or failure to perform any of its obligations under this Agreement where that delay or failure is caused by any circumstances beyond the reasonable control of that party.
- 12.3 Nothing in this clause is intended to limit or exclude the liability of either party for any death or personal injury caused by the negligence of that party or for any other matter in respect of which liability cannot lawfully be limited or excluded.

## **13 ANTI-BRIBERY & ANTI-CORRUPTION**

- 13.1 The parties agree to comply with all applicable laws, statutes and regulations relating to anti-bribery and anti-corruption including, but not limited to, the Bribery Act 2010 (Relevant Requirements)
- 13.2 The parties agree to not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2, or 6 of the Bribery Act 2010 if such activity, practice, or conduct had been carried out in the UK;
- 13.3 The parties agree to keep in place throughout the term of this agreement policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and will enforce them where appropriate;
- 13.4 The parties agree to promptly report to the other Party any request or demand for any undue financial or other advantage of any kind received by them in connection with the performance of this agreement;
- 13.5 The parties agree to immediately notify the other Party (in writing) if a foreign public official becomes their officer or employee or acquires a direct or indirect interest in them.

## **14 GENERAL**

- 14.1 All notices given under this Agreement shall be in writing and emailed to the address stated in this clause 14.1 or sent by first class prepaid post or delivered by hand to the other at its address stated above (or at such other address set out below or as the party has previously notified the

other in writing as its address for services). Any such notice will be deemed to have been served immediately if delivered by hand or received via email, or in the case of delivery by post, 48 hours after posting.

**The Provider -** [REDACTED]

**The Employer –** [REDACTED]

- 14.2 The Provider shall appoint a representative, who shall be responsible for the co-ordination of all matters relating to the Services and who shall have the authority to contractually bind the Provider on all matters relating to this agreement. The Provider shall provide the Employer with up to date contact details and shall use reasonable endeavours to ensure continuity of the representative.
- 14.3 Neither Party shall assign, transfer, charge, subcontract, declare a trust over or deal in any other manner with any or all of its rights and obligations under the Agreement without the other's prior written consent, not to be unreasonably withheld or delayed.
- 14.4 This Agreement constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 14.5 Each party acknowledges that in entering into the Agreement it does not rely on and shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in the Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation [or negligent misstatement] based on any statement in the Agreement.
- 14.6 No variation of the Agreement shall be effective unless it is in writing and signed by the parties (or their authorised representatives).
- 14.7 Each of the parties to this Agreement is an independent contractor and nothing contained in this Agreement shall be construed to imply that there is any relationship between the parties of partnership or of principal/agent or of employer/employee nor are the parties hereby engaging in a joint venture and accordingly neither of the parties shall have any right or authority to act on behalf of the other nor to bind the other by contract or otherwise, unless expressly permitted by the terms of this Agreement.
- 14.8 A waiver of any right or remedy under the Agreement or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent right or remedy.
- 14.9 A failure or delay by a party to exercise any right or remedy provided under the Agreement or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under the Agreement or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 14.10 No one other than a party to this Agreement shall have any right to enforce any of its terms.

## **15 LAW AND JURISDICTION**

- 15.1 The formation, construction, performance, validity and all aspects whatsoever of this Agreement (including any non-contractual disputes) shall be governed by the laws of the country where the main place of business of the Employer is located.

## **16. DISCRIMINATION AND ANTI-SLAVERY**

- 16.1 The Provider shall not unlawfully discriminate within the meaning and scope of any law enactment order or regulations relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age, marital status, pregnancy or maternity, gender reassignment or otherwise).

- 16.2 The Provider shall take all reasonable steps to ensure staff and suppliers to the Provider do not unlawfully discriminate within the meaning and scope of any law enactment order or regulations relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age, marital status, pregnancy or maternity, gender reassignment or otherwise).
- 16.3 In performing its obligations under the Agreement, the Provider shall:
- 16.3.1 comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015;
  - 16.3.2 not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK;
  - 16.3.3 include in contracts with its direct subcontractors and suppliers provisions which are at least as onerous as those set out in this clause 16;
  - 16.3.4 notify the Employer as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement; and
  - 16.3.5 maintain a complete set of records to trace the supply chain of all Services provided to the Employer in connection with this Agreement; and permit the Employer and its third party representatives to inspect the Provider's premises, records, and to meet the Provider's personnel to audit the Provider's compliance with its obligations under this clause 16.
- 16.4 The Provider represents and warrants that at the date of this Agreement it has not been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.
- 16.5 In providing the works the Provider acts as if it was a public authority for the purposes of the Human Rights Act 1998.

## **17 DISPUTE RESOLUTION**

- 17.1 If a dispute arises out of or in connection with this Agreement or the performance, validity or enforceability of it (Dispute) then except as expressly provided in this Agreement the Parties shall follow the procedure set out in this clause:
- 17.1.1 either Party shall give to the other written notice of the Dispute, setting out its nature and full particulars (Dispute Notice), together with relevant supporting documents. On service of the Dispute Notice, the Employer's contract manager and the Provider's contract manager shall attempt in good faith to resolve the Dispute;
  - 17.1.2 if the Employer's contract manager and the Provider's contract manager are for any reason unable to resolve the Dispute within thirty (30) days of service of the Dispute Notice, the Dispute shall be referred to a Director at the Employer and a Director of the Provider who shall attempt in good faith to resolve it; and
  - 17.1.3 if, for any reason, the Dispute remains unresolved within thirty (30) days of it being referred to them, the Parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the Parties, the mediator shall be nominated by CEDR. To initiate the mediation, a Party must serve notice in writing (ADR notice) to the other Party to the Dispute, requesting a mediation. A copy of the ADR notice should be sent to CEDR. The mediation will start not later than fourteen (14) days after the date of the ADR notice.

**IN WITNESS** OF WHICH THIS AGREEMENT IS SIGNED ON BEHALF OF EACH PARTY AS  
FOLLOWS: -

SIGNED FOR AND ON BEHALF OF GREATER LONDON AUTHORITY

  
\_\_\_\_\_

Name.....

Position.....

Dated..........

SIGNED FOR AND ON BEHALF OF AVC WISE LIMITED

\_\_\_\_\_

Name..........

Position.....

Dated.....

# SCHEDULE 1 – Services

## 1 SERVICES

- 1.1 The following list of services will form the Fully Managed Solution by the Provider:
- 1.1.1 Implementation Management – A dedicated Implementation Manager will be assigned to support and manage all activities associated with effective implementation. This includes creating and managing the Implementation Plan, the design of the transfer process for existing AVC contributors and the launch process incorporating the marketing to Employees;
  - 1.1.2 Account Management – Following implementation, a dedicated Account Manager will be assigned to provide ongoing support, continuous review and a benchmarking service to ensure that the scheme is working effectively and attracting maximum participation. This also includes escalation and handling of Employee issues and continuous marketing support;
  - 1.1.2 Documentation Service – Creation of bespoke scheme guidance and terms applicable to existing AVC contributors and new contributors. This will include the formal agreement to reduce salary and Frequently Asked Questions and all guidance and terms to take account of the position regarding tax, National Insurance Contributions and impact on benefits such as statutory payments and tax credits. This will also include potential amendments to the Discretions Policy;
  - 1.1.3 AVC Investment Provider and Pension Fund liaison – Discussions and arrangements with the parties involved to ensure relevant processes and effective integration for reporting are set up and in place;
  - 1.1.4 Marketing and Advertising – A Marketing Manager will be assigned to create and manage a Communications Plan in conjunction with the Communications Team at the Employer. A full suite of marketing tools and collateral to launch and promote the key messages to Employees. Onsite presentations to Employees, roadshows and webinars;
  - 1.1.5 HMRC Compliance – Supply of compliant documentation and notification to HMRC including all liaison for clearance and notification on behalf of the Employer;
  - 1.1.6 Technology System for the Employee – A system available across any device and any platform for the employee to make an application, manage any changes to existing plans and receive communications from the Employer;
  - 1.1.7 Technology System for the Employer - A secure management system to administer applications from the Employee, automatically transfer employees from existing AVC arrangements, send out Employee communications, provide management information and payroll reports;
  - 1.1.8 Customer Service Centre – Helpline for employees between 8.30am and 5.30pm Monday to Friday to answer telephone and email queries, manage application processing and provide first line support and handover to AVC Investment Providers for investment advice and regulated activity;
  - 1.1.9 GDPR Compliance – Full audit trail and secure data processing within the Technology System. Employer functionality to search and view all data changes. Employee functionality to select data preferences.

## SCHEDULE 2 – Charges

### **1 CHARGES AND INVOICING ARRANGEMENTS**

- 1.1 The Employer shall pay the Provider ■ of the value of salary sacrificed by the Employee through payroll for Shared Cost AVCs managed through the Providers Technology System.
- 1.2 The first invoice will be submitted to the Employer by the Provider at the end of the month containing the first payroll reductions for the Shared Cost AVCs managed through the Providers Technology System.
- 1.3 Invoices will be raised at monthly intervals following the first invoice except the final invoice which will be raised on the day of the termination of this contract (for whatever reason) for the period since the issue of the most recently previous invoice.
- 1.4 The Provider acknowledges that due to the nature of the Services, the Employer cannot guarantee volume of uptake by Employees and thus any particular level of Charges payable under this Agreement.

# SCHEDULE 3 – Processing Personal Data and Data Subjects

## 1 PROCESSING BY THE PROVIDER

### 1.1 Scope

- 1.1.1 To administer the Shared Cost AVC scheme effectively for the Employer and its Employees. This involves storing and processing the Personal Data relating to Employees of the Employer as described in clause 1.5.1 of Schedule 3.

### 1.2 Nature

- 1.2.1 The nature of the data processing is the collection and presentation of Employee data through two methods:
  - 1.2.1.1 The importing of data automatically to the Technology System from an existing data source used by the Employer. This is controlled by the Employer;
  - 1.2.1.2 The input of data by Employees directly onto the Technology System.
- 1.2.2 All data is held securely on the Technology System and used to administer the AVC Wise scheme on behalf of the Employer. This involves storing the data and providing access to the employer (to all records) and to the employee (their own record).
- 1.2.3 Data is used to issue communications to Employees through email and printed matter, to present information to the Employee and to allow the Employer to process applications.
- 1.2.4 No data is changed, manipulated or modified as part of the processing unless initiated by the Employer or the Employee. If data is changed, an audit trail is created against every data item that can be interrogated by the Employer. The audit trail includes the time of the change, the nature of the change and the user making the change.
- 1.2.5 Access to data on the Technology System is restricted through the use of policies that are applied for all users to proactively prevent attacks such as brute-force password retrieval. This is achieved through password expiries, maximum wrong password attempts, temporary account disabling and proactive systems' monitoring. Data such as passwords are encrypted with bcrypt algorithms and users have no access to decrypted information at any time.
- 1.2.6 Data is not deleted or destroyed unless the Employer authorises the destruction and upon which a Destruction Certificate is issued.

### 1.3 Purpose of Processing

- 1.3.1 The purpose of processing the data is to administer the AVC Wise scheme for the Employer and Employees. This includes processing data to allow the Employer to:
  - 1.3.1.1 Inform Employees about the AVC Wise scheme by sending them emails or letters notifying them that the scheme is available;
  - 1.3.1.2 Verify the identity of an Employee by presenting the details of the Employee for the Employer to compare them against their payroll record;
  - 1.3.1.3 Align the amounts of Employee contributions to the AVC Investment Provider and provide Employee data to the AVC investment Provider for them to create and update records for the Employee;
  - 1.3.1.4 Prepare and create records for payroll processing by presenting the Employee information in a format that can be used to import into the payroll system at the Employer.

### 1.4 Duration of Processing

- 1.4.1 The processing will start when the Employer imports the Employee data into the Technology System



- 1.4.2 The duration of the processing will continue for the period covered by this Agreement.
- 1.4.3 The data will only be retained for the duration of the Agreement between the Employer and the Provider. At the termination of the Agreement, all data will be returned to the Employer either using secure electronic transfer or encrypted media.
- 1.4.4 All copies of data held by the Provider will be destroyed following confirmed receipt by the Employer and a destruction certificate issued.

## **1.5 Types of Personal Data**

- 1.5.1 The types of personal data being held for the Employee are:

- 1.5.1.1 Email Address
- 1.5.1.2 Department/Place of Work
- 1.5.1.3 Employee Number
- 1.5.1.4 National Insurance Number
- 1.5.1.5 Title
- 1.5.1.6 First Name
- 1.5.1.7 Last Name
- 1.5.1.8 Gender
- 1.5.1.9 Date of Birth
- 1.5.1.10 Telephone Number
- 1.5.1.11 Mobile Number
- 1.5.1.12 Home Address
- 1.5.1.13 Higher or Lower Rate Taxpayer
- 1.5.1.14 AVC Amount
- 1.5.1.15 AVC Interval
- 1.5.1.16 AVC Provider

## **1.6 Categories of Data Subject**

- 1.6.1 The data being processed is for Employees of the Employer only

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