

Dated

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THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF REDBRIDGE

-and-

XXXXXXXXXXXXXXXXXX

CONTRACT FOR THE PROVISION OF
A HOMELESSNESS DECISION MAKING SERVICE
FOR THE PERIOD
1 March 2021 TO 28 February 2022

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BETWEEN:

- (1) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF REDBRIDGE of Town Hall, 128 – 142 High Road, Ilford, Essex, IG1 1DD (“the Authority”)

AND

- (2) [] [a private limited company whose Company Registration Number is [] [a private company limited by guarantee having no share capital whose Company Registration Number is [] [trading as and whose trading office is situate at [] [a partnership] [a registered Charity with Charity Registration Number [] whose registered office is situate at [] (“the Provider”)

WHEREAS:

- (A) The Authority requires the Provider to undertake the Service detailed in the Specification for the period **1 March 2021 TO 28 February 2022** in accordance with the terms of this Contract;
- (B) The Provider agrees to undertake the Service detailed in the Specification in accordance with the terms of this Contract in consideration of which the Authority shall pay the Provider in accordance with the Provider’s accepted Pricing Schedule for the provision of the Service, subject to any deductions as permitted under the Contract (“the Contract Sum”).

NOW IT IS AGREED between the Authority and the Provider as follows: -

1. DEFINITIONS AND INTERPRETATION

In this Contract, except where the context otherwise requires, the following words and expressions shall have the meanings hereby ascribed to them:

- 1.1 “Applicant” means the individual making the application to the Authority for housing assistance for the purposes of the Service;
- 1.2 “Authorised Officer” means the Authority’s Operational Director of Housing or such other person as nominated by the Authority to undertake such role for the purposes of this Contract as notified to the Provider;
- 1.3 “Bribery Act” means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation;
- 1.4 “Commencement Date” means **1 March 2021** or such other date as agreed in writing between the parties to be the Commencement Date of the Service by the Provider;
- 1.5 “Conditions” means these Conditions of Contract as identified to the Provider

prior to the submission by the Provider of the Provider's Quotation and pursuant to the terms of which the Provider agrees to provide the Service;

- 1.6 "Confidential Information" means any information which has been designated as confidential by either party in writing or that ought reasonably to be considered as confidential however it is conveyed, including information that relates to the business, affairs, developments, trade-secrets, know-how, personnel and suppliers of either party, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;
- 1.7 "Contract" means these Conditions together with the Specification, and the Quotation Documents incorporating the Provider's Quotation as accepted by the Authority together with any other documents as may be appended to this Contract by the Authority at the time of execution or thereafter by agreement with the Provider;
- 1.8 "Contract Documents" means those documents comprising the Contract;
- 1.9 "Contract Manager" means the representative of the Provider appointed by the Provider as empowered to act on behalf of the Provider for all purposes connected with this Contract whose full contact details shall be provided to the Authority on the Commencement Date and thereafter upon any changes to such contact details or on subsequent replacement, whether temporary or permanent, of such Contract Manager;
- 1.10 "Contract Period" means the period starting on the Commencement Date and ending at midnight on **28 February 2022**;
- 1.11 "Contract Standard" means such standard as complies in each and every respect with all relevant provisions of the Contract, including for the avoidance of doubt all standards and requirements contained in the Specification and all applicable legislation, regulations, guidance and such like and, where and to the extent that no criteria are stated in the Contract, the standard is to be to the reasonable satisfaction of the Authorised Officer;
- 1.12 "Controller" shall have the same meaning as in the Data Protection Legislation;
- 1.13 "Data Loss Event" means any 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;
- 1.14 "Data Protection Legislation" means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy;
- 1.15 "Data Protection Impact Assessment" means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;

- 1.16 "Data Protection Officer" shall have the same meaning as in the Data Protection Legislation;
- 1.17 "Data Subject" shall have the same meaning as in the Data Protection Legislation;
- 1.18 "Data Subject Request" means 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;
- 1.19 "Day" means any calendar day;
- 1.20 "Disclosure and Barring Service" ("DBS") means the Non-Departmental Public Body established by Section 87(1) of the Protection of Freedoms Act 2012 to carry out the functions formerly provided by the Independent Safeguarding Authority ("ISA") and the Criminal Records Bureau ("CRB") and to which all references in any legislation to ISA or CRB are deemed to be referring;
- 1.21 "DPA 2018" means Data Protection Act 2018;
- 1.22 "Financial Year" means each period commencing on 1st April and ending at midnight on 31st March;
- 1.23 "GDPR" means the General Data Protection Regulation (*Regulation (EU) 2016/679*);
- 1.25 "Joint Controllers" means circumstances where two (2) or more Controllers jointly determine the purposes and means of processing as may be referred to in the Schedule and as set out in the Joint Controller Schedule; [***Drafting Note: where there is going to be a Joint Controller arrangement advice should be sought from Information Governance as to completion of the Joint Controller Schedule***]
- 1.26 "Joint Controller Schedule" means the Schedule set out at Annex A containing each party's responsibilities (if any) when acting as a Joint Controller;
- 1.27 "Law" means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgement of a relevant court of law, or directives or requirements with which the Provider is bound to comply;
- 1.28 "LED" means the Law Enforcement Directive (*Directive (EU) 2016/680*);
- 1.29 "Personal Data" shall have the same meaning as in the Data Protection Legislation;
- 1.30 "Personal Data Breach" shall have the same meaning as in the Data Protection Legislation;
- 1.31 "Processor" shall have the same meaning as in the Data Protection Legislation;

- 1.32 “Protective Measures” means appropriate technical and organisational measures which may include but not be limited to: 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 outlined in the Schedule;
- 1.33 “Pricing Schedule” means the Pricing Schedule submitted by the Provider as part of the Provider’s Quotation, as subsequently accepted by the Authority, in which the Provider detailed the manner in which the Provider would allocate the Contract Sum in the provision of the Service and which shall be binding on the Provider and shall not be subject to amendment other than as expressly permitted in this Contract;
- 1.34 “Prohibited Acts” means the Provider, the Provider Party or the Provider Personnel doing any of the following:
- 1.34.1 directly or indirectly offering, promising or giving any person working for or engaged by the Authority a financial or other advantage to:
- (a) induce that person to perform improperly a relevant function or activity; or
 - (b) reward that person for improper performance of a relevant function or activity;
- 1.34.2 directly or indirectly requesting, agreeing to receive or accepting any financial or other advantage as an inducement or reward for improper performance of a relevant function or activity in connection with this Contract;
- 1.34.3 committing any offence under the Bribery Act, under legislation creating offences concerning fraudulent acts, at common law concerning fraudulent acts relating to this Contract or any other contract with the Authority, or defrauding or attempting to defraud or conspiring to defraud the Authority;
- 1.35 “Provider Party” means the Provider’s agents and contractors including any Sub-Contractor;
- 1.36 “Provider Personnel” / “Processor Personnel” means all directors, officers, employees, agents, consultants and contractors of the Provider / Processor and/or of any Sub-Contractor / Sub-processor engaged in the performance of its obligations under this Contract;
- 1.37 “Provider’s Quotation” means the Quotation submitted by the Provider dated XXX in respect of the Service;
- 1.38 “Service” means the whole of the work to be executed and the service to be performed, including any goods, documents or materials to be supplied by the Provider as detailed in the Specification and in accordance with this Contract, and involves any variation thereto made pursuant to this Contract;

- 1.40 "Specification" means the full description of the Service required to be performed by the Provider pursuant to the terms of this Contract and pursuant to such satisfactory performance the Authority will pay the Provider in accordance with the terms of this Contract and, for the avoidance of doubt, includes any variation to the Service made pursuant to these Conditions;
- 1.41 "Statutory Minimum Wage" means the minimum pay per hour a worker is entitled to in order for the Provider to comply with any statutory provision in force during the Contract Period, and which Statutory Minimum Wage shall, as a minimum, be paid by the Provider at all times to those persons providing the Service;
- 1.42 "Sub-Contractor" means any third parties with whom the Provider enters into a sub-contract in respect of any of its obligations under this Contract;
- 1.43 "Sub-processor" means any third party appointed to process Personal Data on behalf of that Processor related to this Contract;
- 1.44 "Working Day" means any day Monday to Friday, excluding public holidays, between the hours of 09:00 and 17:00 but shall not necessarily be the hours during which the Service shall be provided, which hours shall be in accordance with the Specification or as agreed by the Authorised Officer from time-to-time;
- 1.45 Reference to employees of the Provider shall, for the purposes of this Contract and unless the context requires otherwise, be deemed to include the Provider's agents and Sub-Contractors, or anyone acting on the Provider's behalf, including but not limited to, volunteers, temporary staff and workers who are engaged by the Provider and are performing the Service on the Provider's behalf but who may not be deemed to be an "employee" of the Provider under the Employment Rights Act 1996;
- 1.46 Reference to time shall be construed, during the period of Summer Time, to be British Summer Time and otherwise to be Greenwich Mean Time while those terms are in use and subsequently any other time standard as may be introduced by legislation;
- 1.47 The Contract and any issues or disputes arising out of or in connection with it (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with the Law and, subject to Clause 28 (Disputes and Mediation), the parties submit to the exclusive jurisdiction of the English courts;
- 1.48 A reference to any Act of Parliament, or to any Order, Regulation, Statutory Instrument, or the like shall be deemed to include a reference to any amendment or re-enactment of the same;
- 1.49 A reference to any term in the singular shall include, as appropriate, the plural and any reference to the masculine shall include, as appropriate, the feminine;
- 1.50 Clause headings are for convenience only and shall not form part of this Contract;

1.51 Use of the terms “including”, “includes”, “particularly” or “in particular” or any similar such expression or use of lists shall be construed as illustrative only and shall not be deemed to be exhaustive or to limit the sense of the words preceding those terms or to exclude any items which have not been specified.

2. FORM OF CONTRACT

2.1 Sufficiency of Information

2.1.1 Before submitting the Provider’s Quotation the Provider shall have satisfied itself as to the accuracy and sufficiency of the prices stated in the Provider’s Quotation which shall be deemed (except in so far as is otherwise expressly provided in the Contract) to cover all the Provider’s obligations under the Contract. Further, the Provider shall be deemed to have obtained for itself all necessary information as to risks, contingencies and any other circumstances which might reasonably influence or affect all aspects of the Provider’s Quotation, including the Pricing Schedule.

2.1.2 The Authority does not warrant the truth or accuracy of any representation which may have been made to the Provider prior to its entering into the Contract and the Provider acknowledges that it did not rely upon any representations made by or on behalf of the Authority when submitting the Provider’s Quotation or entering into the Contract.

2.2 Documents Mutually Explanatory

2.2.1 Except as otherwise expressly provided, the Contract Documents are to be taken as mutually explanatory of one another. Any ambiguities or discrepancies shall be resolved by the Authorised Officer who shall thereupon issue to the Provider appropriate instructions in writing and the Provider shall carry out and be bound by such instructions.

2.2.2 In the event of any inconsistency between these Conditions and any provision in any of the other Contract Documents, these Conditions shall prevail.

3. VARIATION TO THE CONTRACT

3.1 Following the formation of a binding agreement between the parties, no deletion from, addition to, or variation of this Contract shall be valid or of any effect unless agreed in writing and signed by the parties.

3.2 The Provider acknowledges that due to changes in budget, practice, legislation, and / or guidance that may come into force at any time during the Contract Period, the Authority may require the Service to be delivered in a manner different to that specified by the Authority at the Commencement Date provided that such variations to the Contract are permitted under applicable Law and do not render the Contract materially different in nature or value from the Contract originally entered into. The Provider agrees that it shall cooperate

with the Authority in adapting and changing its delivery of the Service to accommodate such changes and shall be flexible in its Service provision.

4. PROVIDER'S OBLIGATIONS

- 4.1 During the Contract Period the Provider shall provide the Service:
- 4.1.1 in a proper skilful, diligent and cost effective manner to the Contract Standard and to the reasonable satisfaction of the Authorised Officer;
 - 4.1.2 at the times, in the manner and at the frequencies specified in the Specification;
 - 4.1.3 at the price or prices agreed by the Authority for the Service to be carried out under the Contract.
- 4.2 The Provider shall at all times during the Contract Period allow the Authorised Officer and such persons as may from time to time be nominated by the Authorised Officer access to;
- 4.2.1 relevant locations where the Service is being provided for the purpose of inspecting the Service being performed pursuant to the Contract;
 - 4.2.2 relevant locations of the Provider for the purpose of inspecting records and documents in the possession of the Provider in connection with the performance of the Contract;
 - 4.2.3 any equipment used or proposed to be used in connection with the performance of the Service for the purpose of ensuring that such equipment is suitable for the intended use and meets all statutory requirements relating to it; and
 - 4.2.4 any employee or agent of the Provider for the purpose of interviewing them in connection with the carrying out of all or any part of the Service.
- 4.3 The Provider shall provide to the Authorised Officer as soon as possible, and in any event no later than six (6) months from the end of each Financial Year, externally and independently audited accounts for the Financial Year during which monies are received (and/or expended if different) by the Provider pursuant to the Contract. In the event that the Provider fails to provide accounts when requested in accordance with this Sub-Clause 4.3 then, without prejudice to any other rights or remedies available to the Authority, the Authorised Officer or such persons as may from time to time be nominated by the Authorised Officer, shall be given access to all and any accounting documents and information in the possession custody or under the control of the Provider.
- 4.4 The Provider shall provide to the Authority at all times on request such information regarding the Provider's activities as the Authority, any auditor, or any statutory or other such body may reasonably require to review and assess the manner in which the Provider has expended all or any part of the monies paid to the Provider pursuant to the Contract.

4.6 Policies, Procedures and Guidance

- 4.6.1 The Provider shall have in place for the entire Contract Period a Business Continuity Plan to ensure the Provider is able to provide the Service in cases of emergency, including but not limited to fire and flood. The Provider shall test the Business Continuity Plan at least annually and shall regularly review the Business Continuity Plan to ensure that it is adequate. The Business Continuity Plan shall be available for inspection by the Authority on request.
- 4.6.2 The Provider shall have in place for the entire Contract Period and shall actively implement a Safeguarding Policy. The Provider shall ensure that all employees working with vulnerable people are trained in this area and are made fully aware of the Safeguarding Policy. The Provider shall ensure that all staff are made aware of and comply with their statutory roles and responsibilities as required by the Care Act 2014 in safeguarding vulnerable people from abuse and neglect. The Provider shall also ensure that the principles of the Safeguarding Policy are put into practice in the delivery of the Service.
- 4.6.3 The Provider shall have in place for the entire Contract Period and shall actively implement policies and procedures and training for employees that accords with the duties contained in the Counter-Terrorism and Security Act 2015 and which promotes an understanding of radicalisation and extremism and the relationship between them.

4.7 Whistleblowing Scheme

The Provider is encouraged to report to the Authorised Officer any concerns regarding the Authority, its officers, Members, clients or anyone with whom the Authority is engaged. Should the Provider consider that the Authorised Officer is involved in the issue, or that the Authorised Officer may have a conflict of interest, the Provider should report the matter to the Authority's Head of Audit, or via the Authority's website under the Fraud section.

4.8 Environmental Issues and Sustainability

The Provider shall ensure that throughout the Contract Period they comply with all legislation, guidance and best practice in relation to environmental issues and sustainability that arise in relation to their performance of the Service, including but not limited to, any reasonable requirements of the Authority.

5. PROVIDER'S EMPLOYEES

- 5.1 The Provider shall engage sufficient qualified and experienced persons to ensure that the Service is provided at all times and in all respects to the Contract Standard.

- 5.2 The Provider shall ensure that every person engaged in and about the provision of the Service is at all times properly and sufficiently trained, qualified, competent, careful, skilled, honest, experienced, instructed and supervised as the case may be with regard to the Service and in particular with respect to:
- 5.2.1 the task or tasks such person has to perform;
 - 5.2.2 all relevant provisions of the Contract;
 - 5.2.3 all relevant policies, rules, procedures and standards of the Authority;
 - 5.2.4 all relevant rules, procedures and statutory requirements concerning health and safety at work;
 - 5.2.5 fire risks and fire precautions;
 - 5.2.6 the need to maintain the highest standard of hygiene, courtesy and consideration;
 - 5.2.7 the need to recognise situations which may involve any actual or potential danger or personal injury to any person and where possible without personal risk, to make safe such situations, and forthwith to report such situations to the Authorised Officer.
- 5.3 The Authorised Officer shall be entitled, providing acting reasonably, to require the Provider, by notice in writing, to remove from the provision of the Service any employee of the Provider specified in such notice including the Contract Manager. Upon receiving such notice, the Provider shall forthwith remove any employee named from the provision of the Service and shall immediately provide a replacement if necessary. The Provider shall not engage any employee of the Provider so removed from the provision of the Service for the purposes of carrying out work for the Authority under this Contract or any other contract extant at the time of the removal without obtaining the prior written consent of the Authority, which consent shall not be unreasonably withheld or delayed.
- 5.4 The Authority shall in no circumstances be liable either to the Provider or to the employee in respect of any liability, loss or damage occasioned by such removal as referred to in Sub-Clause 5.3 above and the Provider shall fully indemnify the Authority against any claim made by such an employee.
- 5.5 The Authorised Officer shall be entitled to require the Provider and any person engaged in and about the provision of the Service forthwith to desist from carrying out any act or acts which in the opinion of the Authorised Officer involve an unnecessary danger to the life or health of any person or involve a breach of any statutory requirements or obligations or involve a breach of any of the Authority's relevant policies.
- 5.6 The Provider shall ensure that every person engaged in the provision of the Service works strictly in accordance with the EC Working Time Directive (No.2003/88), the Working Time Regulations 1998 and any subsequent Directives, Regulations, Statutes or Acts relating to working time.

- 5.7 The Provider shall ensure that every person engaged in the provision of the Service is legally entitled to remain and work in the United Kingdom and shall not permit any person not so entitled to continue to work. The Provider shall take such actions in respect of such person not legally entitled to remain or work in the United Kingdom as appropriate.
- 5.8 The Provider shall ensure that, as a minimum, it pays all employees engaged pursuant to the Contract the Statutory Minimum Wage as applicable to that employee.
- 5.9 The Provider shall at all times be fully responsible for the payment of all income or other taxes, National Insurance contributions, or levies of any kind, relating to or arising out of the engagement of any person by the Provider and the Provider shall ensure that it maintains sufficient funds in order to satisfy all such obligations.
- 5.10 The Provider shall fully indemnify the Authority for any costs, expenses and any additional liabilities resulting from or connected with any claim made by an employee of the Provider or any third party against the Authority which arises from or is connected with any act or default on the part of the Provider or any breach of the Provider's contractual or statutory obligations to such employees or third party, including but not limited to any default relating to any payments to be made to or on behalf of the Provider's employees or third parties.

6. CONTROL AND SUPERVISION OF PROVIDER'S EMPLOYEES

- 6.1 The Provider shall ensure that the Contract Manager, or a competent deputy duly authorised by the Provider to act on its behalf, is available to meet the Authorised Officer or the Authorised Officer's representative at all reasonable times during which the Service is provided.
- 6.2 The Contract Manager shall inform the Authorised Officer promptly, and confirm in writing, any instances of activity or omission on the part of the Authority which prevent or hinder, or which may prevent or hinder the Provider from complying with the Contract. The provision of information under this Sub-Clause 6.2 shall not in any way release or excuse the Provider from any of its obligations under the Contract.
- 6.3 The Provider shall provide a sufficient number of supervisory employees to ensure that the Provider's employees engaged in and about the provision of the Service are at all times adequately supervised and properly perform their duties to the Contract Standard.
- 6.4 The Authorised Officer, acting reasonably, shall be entitled to require the Provider;
- 6.4.1 and any person engaged in and about the provision of the Service forthwith to desist from carrying out an act or acts which in the opinion of the Authorised Officer are not permitted within the terms of the Contract or which in the opinion of the Authorised Officer could result in loss or damage to any persons or property, including but not limited to loss or damage to the Authority; and/or

- 6.4.2 to take disciplinary action against any employee of the Provider involved in the provision of the Service (in accordance with the terms and conditions of employment of the employee concerned) where such employee misconducts themselves or is incompetent or negligent in their duties (in which case the Authority shall co-operate with any disciplinary proceedings and shall be advised in writing of the outcome); and/or
- 6.4.3 to exclude from any relevant location any person engaged in and about the provision of the Service who the Authorised Officer has reasonable grounds for considering that their presence or conduct at any location relevant to the performance of the Service is undesirable or poses a risk to themselves, the Authority, a third party or any property and the Authorised Officer (acting reasonably) may themselves direct any such person to leave the relevant location where the circumstances will not admit delay. Any person so removed shall not be engaged again on the provision of the Service without the prior written consent of the Authority.

7. CONFIDENTIALITY

- 7.1 The Provider shall not without the prior written consent of the Authorised Officer during the Contract Period or any time thereafter make use for its own purposes, or disclose to any person (except as may be required by Law), the Contract Documents or any information contained therein or in any material provided to the Provider by the Authority pursuant to the Contract or prepared or acquired by the Provider pursuant to the Contract, all of which information shall be deemed to be Confidential Information.
- 7.2 The Provider shall neither dispose of, nor part with possession of, any material provided to the Provider by the Authority pursuant to the Contract or prepared by the Provider pursuant to the Contract, other than in accordance with the express written instructions of the Authority, whether or not such information is deemed by the Authority as Confidential Information.
- 7.3 The Provider shall not, and shall ensure that its employees do not, divulge to any third party any Confidential Information that comes into its or their possession either directly or indirectly in the course of providing the Service.
- 7.4 Either party may disclose to the other Confidential Information regarding a Applicant where such disclosure to the other is deemed by the disclosing party to be in the best interests of the Applicant concerned, or such disclosure is necessary so as to protect the health, safety or welfare of the Applicant or others.
- 7.5 The Provider shall indemnify and keep indemnified the Authority against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Provider of this Clause 7 (Confidentiality).

8. DATA PROTECTION AND CALDICOTT STANDARD

- 8.1 The parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Provider is the Processor unless otherwise specified in the Schedule. The only processing that the Processor is authorised to do is listed in the Schedule by the Controller and may not be determined by the Processor.
- 8.2 The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
- 8.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
 - 8.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 8.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - 8.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 8.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 8.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
 - 8.4.1 process that Personal Data only in accordance with the Schedule, 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;
 - 8.4.2 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:
 - 8.4.2.1 nature of the data to be protected;
 - 8.4.2.2 harm that might result from a Data Loss Event;
 - 8.4.2.3 state of technological development; and
 - 8.4.2.4 cost of implementing any measures;
 - 8.4.3 ensure that:
 - 8.4.3.1 the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular the Schedule);

8.4.3.2 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:

(i) are aware of and comply with the Processor's duties under this Clause 8 (Data Protection and Caldicott Standard);

(ii) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;

(iii) 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

(iv) have undergone adequate training in the use, care, protection and handling of Personal Data; and

8.4.3.3 not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

(i) the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Controller;

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations) and

(iv) the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;

8.4.3.4 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.

8.5 Subject to Sub-Clause 8.6 below, the Processor shall notify the Controller immediately if it:

8.5.1 receives a Data Subject Request (or purported Data Subject Request);

8.5.2 receives a request to rectify, block or erase any Personal Data;

- 8.5.3 receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation;
 - 8.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
 - 8.5.5 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
 - 8.5.6 becomes aware of a Data Loss Event.
- 8.6 The Processor's obligation to notify under Sub-Clause 8.5 above shall include the provision of further information to the Controller in phases, as details become available.
- 8.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under Sub-Clause 8.5 above (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- 8.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 8.7.2 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;
 - 8.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 8.7.4 assistance as requested by the Controller following any Data Loss Event;
 - 8.7.5 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.
- 8.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 8 (Data Protection and Caldicott Standard). This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 8.8.1 the Controller determines that the processing is not occasional;
 - 8.8.2 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; or

- 8.8.3 the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 8.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 8.10 Each party shall designate its own data protection officer if required by the Data Protection Legislation.
- 8.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:
- 8.11.1 notify the Controller in writing of the intended Sub-processor and processing;
 - 8.11.2 obtain the written consent of the Controller;
 - 8.11.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Clause 8 (Data Protection and Caldicott Standard) such that they apply to the Sub-processor; and
 - 8.11.4 provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 8.12 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
- 8.13 The Controller may, at any time on not less than thirty (30) Working Days' notice, revise this Clause 8 (Data Protection and Caldicott Standard) 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).
- 8.14 The parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than thirty (30) Working Days' notice to the Processor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- 8.15 Where the parties include two (2) or more Joint Controllers as identified in the Schedule, in accordance with GDPR Article 26, those parties shall enter into a Joint Controller Agreement based on the terms outlined in Annex A in replacement of Sub-Clauses 8.1 to 8.14Sub- above for the Personal Data under Joint Control.
- 8.16 The Provider shall comply with the Caldicott Standards, including the undertaking of a management audit. The Provider shall have in place systems that comply with the legislation specifically in terms of data storage, handling, disclosure and destruction.

9. FREEDOM OF INFORMATION

- 9.1 The Provider acknowledges that the Authority is subject to the requirements of the Code of Practice on Government Information, the Freedom of Information

Act 2000 ("the FOIA"), the Environmental Information Regulations 2004 ("the EIR's") and other statutory requirements, guidance and codes of practice issued by the Information Commissioner or relevant Government departments and the Provider agrees to assist and co-operate with the Authority (at the Provider's expense except insofar as otherwise agreed in writing) to enable the Authority to comply with its Information (as defined in Section 84 of the FOIA) obligations.

9.2 The Provider acknowledges that designation by the Provider or the Authority of any information as Confidential Information is indicative only of the status of such information and that irrespective of such designation the Authority may disclose or publish such information in accordance with the provisions of this Clause 9 (Freedom of Information).

9.3 The Provider shall and shall procure that any Sub-Contractors shall:

9.3.1 transfer to the Authority any Requests for Information, or an apparent request, under the Code of Practice on Access to Government Information, the FOIA or the EIR's that it receives as soon as practicable after receipt and in any event within two (2) Working Days of receiving such Request for Information;

9.3.2 provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and

9.3.3 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA or Regulation 5 of the EIR's.

9.4 The Provider acknowledges that notwithstanding any other provision in the Contract or in any other agreement the Authority shall be responsible for determining in its absolute discretion whether:

9.4.1 any Information or the content of any one (1) or all of the Contract Documents is exempt from disclosure or publication in accordance with the provisions of the FOIA, EIR's, or any other statutory requirements, guidance or codes of practice applicable during the Contract Period; or

9.4.2 the Information is to be disclosed in response to a Request for Information; or

9.4.3 the Information or any one (1) or all of the Contract Documents is to be published by the Authority.

9.5 The Provider agrees that in no event shall it respond directly to a Request for Information unless expressly authorised in writing by the Authority to do so.

9.6 The Provider acknowledges that the Authority may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part 1 of the FOIA ("the Code") and freedom of information best practice for local authorities:

- 9.6.1 disclose Information under the FOIA or the EIR's without consulting the Provider; or
- 9.6.2 disclose Information under the FOIA or the EIR's following consultation with the Provider and having taken it's views into account

provided that where this Clause 9 (Freedom of Information) applies, the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advanced notice of the disclosure, or failing that, to draw the disclosure to the Provider's attention after any such disclosure.

- 9.7 The Provider agrees that notwithstanding any other clause in this Contract, the Provider hereby consents to the Authority publishing the Contract in its entirety, including from time-to-time agreed changes to the Contract, to the general public irrespective of whether such publication is pursuant to a Request for Information or otherwise.
- 9.8 The Provider shall ensure that all Information is retained for disclosure for a minimum of six (6) years after the date of expiry or earlier termination of this Contract (or as long a period as may be agreed between the Authority and the Provider) and shall permit the Authority to inspect such records as requested from time to time.

10. HEALTH AND SAFETY AND RISK ASSESSMENT

- 10.1 The Provider shall at all times comply with the requirements of the Health and Safety at Work etc. Act 1974 and of any other acts, regulations, orders or other statutory provisions relating to the health and safety of employees or relating to general health and safety matters that are applicable to the Service, including any acts, regulations, orders or other statutory provisions which may come into force at any time during the Contract Period.
- 10.2 The Provider agrees that for all purposes during the Contract Period the Provider shall ensure compliance with the Authority's health and safety standards as detailed in the Authority's general health and safety statement published from time-to-time, or as otherwise notified to the Provider. The Provider shall also ensure compliance with the Authority's reasonable requirements in relation to health and safety as detailed in the Specification or as otherwise notified to the Provider from time-to-time.
- 10.3 The Authorised Officer shall be empowered to suspend the provision of the Service or any part thereof in the event of non-compliance by the Provider with this Clause 10 (Health and Safety and Risk Assessment) or with the Provider's legal duties in relation to health and safety matters. The Provider shall not resume provision of the Service or such part of the Service until the Authorised Officer is satisfied that the Provider's non-compliance has been rectified.
- 10.4 The Provider shall undertake written Risk Assessments of all aspects of the Service, including but not limited to the location(s) in which the Service is to be undertaken, within one (1) month of the Commencement Date and periodically throughout the Contract Period. The Provider shall undertake all reasonable actions to deal with any risks identified.

10.5 The Provider shall retain evidence of all Risk Assessments undertaken in accordance with Sub-Clause 10.4 above, and the actions taken as a result of such Risk Assessments, for a period of six (6) years from the date of the Risk Assessment and shall provide the Authorised Officer with all such evidence upon request.

10.6 The Authority will not be liable for or in respect of any damages or compensation payable at Law in respect of, or in consequence of any accident or injury to any person engaged by the Provider, any Sub-Contractor, or any third party save and except to the extent that such accident or injury results from or is contributed to by any act or default of the Authority, its agents, or servants and the Provider shall indemnify and keep indemnified the Authority against all claims, demands, proceedings, costs, charges and expenses whatsoever in respect thereof or in relation thereto.

11. RELATIONSHIP OF THE PARTIES

11.1 Neither the Provider nor any persons acting on the Provider's behalf shall in any circumstances hold itself or themselves out as being the servant or agent of the Authority, otherwise than in circumstances expressly permitted by this Contract.

11.2 Neither the Provider nor any persons acting on the Provider's behalf shall in any circumstances hold itself or themselves out as being authorised to enter into any contract on behalf of the Authority, or in any other way to incur any liabilities on behalf of the Authority or bind the Authority to the performance, variation, release or discharge of any obligation or make any representations or give any warranty on behalf of the Authority.

11.3 The Provider agrees that at all times in connection with this Contract the Provider shall be an independent contractor and nothing in this Contract shall create a relationship of agency or partnership or joint venture between the Provider and the Authority.

11.4 Neither the Provider nor any persons acting on behalf of the Provider shall in any circumstances hold itself or themselves out as having the power to make, vary, discharge or waive any by-law or regulation of any kind.

12. EQUALITIES

12.1 The Provider as an employer and provider of the Service shall take all reasonable steps to ensure the elimination of all forms of discrimination in relation to gender, gender reassignment, religion, race, disability, age, sexual orientation and pregnancy and maternity in both its employment practice and in its delivery of the Service in accordance with an established equal opportunities policy, which policy shall include effective monitoring.

12.2 In complying with its obligations under Sub-Clause 12.1 above, the Provider shall have due regard to the Authority's Equalities Scheme, a copy of which the Provider acknowledges it has access to, and the Provider shall ensure compliance with its obligations under:

- the Equality Act 2006 (as amended); and
- the Equality Act 2010

and all amendments, re-enactments, or any subsidiary legislation and any other equal opportunities legislation, Regulations, Acts, Codes of Practice or guidance issued or in force during the Contract Period.

- 12.3 The Provider shall ensure that for all matters relating to the Contract the Provider complies with the public sector equality duty contained in Section 149 of the Equality Act 2010 and shall ensure that it does not by any act or omission place the Authority in breach of its obligations under the Equality Act 2010.
- 12.4 The Provider shall fully indemnify the Authority against all actions, claims demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Provider of this Clause 12 (Equalities).

13. OBSERVANCE OF STATUTORY REQUIREMENTS

- 13.1 The Provider shall comply with all statutory and other provisions, guidance and codes of practice as applicable to the performance of the Service by the Provider and as applicable to the status of the Provider. Such requirement shall include compliance with any amendments or re-enactments, any subsidiary legislation, Regulations or any future Acts of a similar nature during the Contract Period.
- 13.2 The Provider shall indemnify the Authority against all actions, claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect of any breach by the Provider of this Clause 13 (Observance of Statutory Requirements).

14. QUALITY ASSURANCE AND COMPLAINTS

- 14.1 The Provider shall self-monitor the provision of the Service and the Provider's compliance with all requirements of the Contract to ensure that quality is being maintained. The Provider shall provide the Authorised Officer with evidence of such self-monitoring, including but not limited to, actions taken to remedy any issues identified, immediately on request. Following receipt of such evidence the Authorised Officer shall be entitled to take any actions permitted under the Contract as they consider reasonable in the circumstances.
- 14.2 The Provider shall notify the Authority immediately upon receipt of any complaint received in relation to the Service and shall thereafter keep the Authority informed of the investigation to be undertaken in response to such complaint and the outcome. Following notification of a complaint, the Authority reserves the right to participate in the investigation and/or to direct the Provider as to the action to be taken. The Authority further reserves the right to consider the complaints made to the Provider in assessing whether the Provider has performed the Service to the Contract Standard and to take action in accordance with the terms of this Contract.

15. INDEMNITY AND INSURANCE

- 15.1 The Provider shall indemnify and keep indemnified the Authority against the injury to, or death of, any person, and loss of, or damage to, any property including property belonging to the Authority except and to the extent that it may arise out of the act, default or negligence of the Authority, its employees or agents not being the Provider or engaged by the Provider.
- 15.2 Without thereby limiting its responsibilities under this Clause 15 (Indemnity and Insurance), throughout the Contract Period the Provider shall insure with a reputable UK based insurance company against the injury to, or death of, any person, the loss of, or damage to, any property arising out of or in consequence of the Provider's obligations under the Contract and against all actions, claims, demands, proceedings, damages, costs, charges and expenses in respect thereof. Such insurance cover shall be no less than five million pounds (£5,000,000) in respect of any one (1) incident or claim, and the Provider's insurance policy effecting such cover shall have the interest of the Authority endorsed thereon, or shall otherwise expressly by its terms confer its benefits upon the Authority.
- 15.3 Without thereby limiting its responsibilities under this Clause 15 (Indemnity and Insurance), throughout the Contract Period the Provider shall insure with a reputable UK based insurance company against the injury to, or death of, any person arising under a contract of service with the Provider and arising out of an incident occurring during the course of such person's employment. Such insurance shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and the Road Traffic Act 1972 and any statutory orders made thereunder and shall be no less than five million pounds (£5,000,000) in respect of any one (1) incident or claim.
- 15.4 Where appropriate for the provision of the Service, the Provider shall take out and maintain throughout the Contract Period professional indemnity insurance relevant to the provision of the Service in the sum of two million pounds (£2,000,000) or such greater sum as the Provider may choose in respect of any one (1) incident or claim.
- 15.5 The Provider shall supply to the Authority forthwith and upon each renewal date of any relevant policy, a certificate from its insurers or brokers confirming that the Provider's insurance policies comply with this Clause 15 (Indemnity and Insurance) and the Provider shall supply to the Authority on request copies of all insurance policies, cover notes, premium receipts and other documents necessary to establish compliance with this Clause 15 (Indemnity and Insurance).
- 15.6 The Authority shall indemnify and keep indemnified the Provider against the injury to or death of any person, or loss of, or damage to any property including property belonging to the Provider to the extent that it may arise out of the act, default, or negligence of the Authority, its employees or agents other than the Provider, its employees and agents. Save for in respect of the foregoing, the Authority shall in no circumstances be liable to the Provider for any loss or damage (whether direct, indirect or consequential) howsoever caused otherwise than in accordance with an express provision of the Contract.

16. GRATUITIES

The Provider shall not, whether itself, or by any person engaged by it to provide the Service, solicit or accept any gratuity, tip or any other form of money taking or reward, collection, or charge for any part of the Service other than charges properly approved by the Authority in accordance with the provisions of the Contract.

17. PREVENTION OF BRIBERY, GIFTS AND PAYMENTS OF COMMISSION

17.1 The Provider:

17.1.1 shall not, and shall procure that any Provider Party and all Provider Personnel shall not, in connection with this Contract commit a Prohibited Act;

17.1.2 warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Contract or any other contract with the Authority, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Contract or, as applicable, the other contract.

17.2 The Provider shall:

17.2.1 if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

17.2.2 within twenty (20) Working Days of the Commencement Date, certify to the Authority in writing (such certification to be signed by an officer of the Provider) compliance with this Clause 17 (Prevention of Bribery, Gifts and Payments of Commission) by the Provider and all persons associated with it or other persons who are supplying goods or services in connection with this Contract. The Provider shall provide such supporting evidence of compliance as the Authority may reasonably request.

17.3 The Provider shall have in place from the Commencement Date and throughout the Contract Period an anti-bribery policy (which shall be disclosed to the Authority) and/or shall undertake throughout the Contract Period to comply with the Authority's anti-bribery policy to prevent any Provider Party or Provider Personnel from committing a Prohibited Act. The Provider shall enforce the policy where appropriate.

17.4 If the Provider suspects or knows of any breach of this Clause 17 (Prevention of Bribery, Gifts and Payments of Commission) the Provider shall notify the Authority in writing immediately.

17.5 If the Provider notifies the Authority that it suspects or knows that there may be a breach of this Clause 17 (Prevention of Bribery, Gifts and Payments of Commission), the Provider shall respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books,

records and any other relevant documentation. This obligation shall continue for six (6) years following the expiry or earlier termination of this Contract.

17.6 The Authority may terminate this Contract by written notice with immediate effect and recover from the Provider any loss sustained if the Provider, Provider Party or Provider Personnel (in all cases whether or not acting with the Provider's knowledge) breaches this Clause 17 (Prevention of Bribery, Gifts and Payments of Commission).

17.7 In determining whether to exercise the right of termination under Sub-Clause 17.6 above, the Authority shall give all due consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Provider or a senior officer of the Provider or by an employee, Sub-Contractor or supplier not acting independently of the Provider. The expression "not acting independently of" (when used in relation to the Provider or a Sub-Contractor) means and shall be construed as acting:

17.7.1 with the authority; or,

17.7.2 with the actual knowledge;

of any one (1) or more of the directors of the Provider or the Sub-Contractor (as the case may be); or

17.7.3 in circumstances where any one (1) or more of the directors of the Provider ought reasonably to have had knowledge.

17.8 Any notice of termination given by the Authority under Sub-Clause 17.6 above shall specify:

17.8.1 the nature of the Prohibited Act;

17.8.2 the identity of the party whom the Authority believes has committed the Prohibited Act; and

17.8.3 the date on which the Contract will terminate.

17.9 Notwithstanding Clause 29 (Disputes and Mediation), any dispute relating to:

17.9.1 the interpretation of this Clause 17 (Prevention of Bribery, Gifts and Payments of Commission); or

17.9.2 the amount or value of any gift, consideration or commission,

shall be determined by the Authority and its decision shall be final and conclusive.

17.10 Any termination of this Contract by the Authority pursuant to this Clause 17 (Prevention of Bribery, Gifts and Payments of Commission) shall be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

18. PAYMENTS and DEFAULT

18.1 Payments

- 18.1.1 Subject to the Provider's satisfactory performance and any deductions as permitted under this Contract, the Authority shall pay to the Provider the Contract Sum for the Service every three (3) calendar months ("Quarter") in arrears by BACS Credit transfer.
- 18.1.2 No later than fourteen (14) Days following the last Day of each Quarter the Provider shall submit to the Authorised Officer an invoice in respect of the decisions issued in the preceding Quarter.
- 18.1.3 The Provider shall only submit invoices in the format detailed in the Specification or as otherwise agreed with the Authorised Officer. The invoice shall be accompanied by such receipted vouchers, invoices, time sheets and other documents as may be required by the Authorised Officer for the purpose of examination of the invoice and the audit thereof. The invoice shall also show the Pricing Schedule prices plus any deductions arising pursuant to the Contract.
- 18.1.4 The Authorised Officer shall validate the sum due to the Provider having regard to the invoice and any adjustments made pursuant to this Contract. Should the Authority dispute the sum contained in any invoice, the Authority shall return the same to the Provider, together with an explanation as to the dispute, within fourteen (14) Days of receipt of the disputed invoice by the Authority. The Provider shall then address the dispute and re-submit the disputed invoice within seven (7) Days of its return to the Provider. The Provider shall not be entitled to any payment until the Authority is satisfied that the amount of such invoice is correct.
- 18.1.5 Any dispute as to the content of any invoice that cannot be resolved in accordance with Sub-Clause 18.1.4 above, shall be resolved in accordance with Clause 28 (Disputes and Mediation).
- 18.1.6 Within thirty (30) Days of receipt of a valid undisputed invoice by the Authority the Provider shall pay such an amount as is properly certified and due. Any disputed invoice shall be paid by the relevant party within thirty (30) Days' of the date of resolution of the dispute provided that such resolution shows monies are owed.
- 18.1.7 The Provider shall forthwith on request and/or on completion of the Contract furnish to the Authorised Officer a full detailed account in respect of the work executed and delivered under the Contract, with such receipted vouchers, invoices, time sheets and other documents as may be required by the Authorised Officer for the purpose of examination of the account and the audit thereof. The Provider shall not be entitled to any final payment under the Contract until the Authority is satisfied that the amount of such account is correct.

18.1.8 The Authority's Head of Finance or any other relevant auditor shall be entitled to examine any documents or records held by the Provider in respect of the provision of the Service.

18.2 Default

18.2.1 The Authorised Officer shall be entitled to take such reasonable steps as considered necessary to ascertain whether the Provider has performed the Service in accordance with its obligations under the Contract.

18.2.2 The Provider shall attend monitoring meetings with the Authority to discuss the Provider's performance at such frequencies as detailed in the Specification or otherwise notified to the Provider in writing. At least ten (10) Working Days prior to the date of each monitoring meeting, the Provider shall supply the Authority with such performance data as specified in the Specification and/or as reasonably requested by the Authority.

18.2.3 Where the Authorised Officer is satisfied that the Provider has failed to provide the Service to the Contract Standard or to their reasonable satisfaction and/or has failed to achieve any of the outcomes, outputs or performance indicators detailed in the Specification or otherwise notified to the Provider (a "Default") the Provider will be issued with a Default Notice. The Default Notice shall specify the nature of the Default together with an improvement plan and reasonable timescale within which the Authorised Officer requires the Provider to rectify the Default. If the Provider fails to comply with the Default Notice, or fails to do so within the specified timescale, the Authorised Officer may, without prejudice to any other remedies which the Authority may have under this Contract or at Law, by notice in writing and in accordance with Sub-Clause 18.3.4.2 below, adjust the amount due to the Provider for the Quarter in which the Provider was notified of the Default and for each subsequent Quarter until the Default has been rectified to the reasonable satisfaction of the Authorised Officer. If the Default is not capable of being remedied or continues for two (2) or more consecutive Quarters, the Authority shall be entitled (without prejudice to any other remedy the Authority may have under this Contract or at Law) to terminate the Contract by notice in writing with immediate effect and in the event of such termination, the provisions of Sub-Clause 21.2 to Sub-Clause 21.4 (Termination) shall apply.

18.2.4 If the Authorised Officer determines that the Provider has committed a Default and/or has failed to provide the Service or any part thereof with due diligence and care and/or in a proper, skilful and cost efficient manner and/or to the Contract Standard and/or in accordance with good practice then, without prejudice to any other rights the Authority may have under this Contract (including but not limited to pursuant to Sub-Clauses 21.2 to 21.4 (Termination)) or at Law:

18.2.4.1 The Authority may itself provide or may engage and pay other persons to provide the Service or any part thereof and all costs incurred thereby may be deducted from any

sums due or to become due to the Provider under the Contract or shall be recoverable from the Provider by the Authority as a debt; and/or

- 18.2.4.2 The Authority may reduce the amount payable to the Provider pursuant to this Clause 18 (Payments and Default) by an amount that represents the value of the Service that has not been provided calculated by reference to the value of the Service as required under the Contract.

18.3 **Provider's Cessation of Operation**

If the Provider ceases to operate as an entity (whether or not the Provider is wound up in Law) the Provider shall immediately repay to the Authority such monies as specified by the Authority save for any sums already spent by the Provider in the performance of the Service in accordance with the provisions of the Contract or otherwise lawfully committed pursuant to the performance of the Service and in accordance with the provisions of the Contract. Any such sums requested by the Authority and not repaid within twenty-eight (28) Days of such request shall be recoverable by the Authority as a debt provided that the Authority shall not (in the absence of fraud or other unlawful action by individual members of the Provider) seek such sums directly from any individual member of the Provider.

19. **VALUE ADDED TAX**

In addition to the sum specified in Clause 18 (Payments and Default) the Authority shall pay to the Provider such Value Added Tax as may be properly chargeable by the Provider in connection with the provision of the Service. The Provider shall issue a tax invoice in respect thereof.

20. **PRICING REVIEW**

- 20.1 The Contract Sum as set out in the Pricing Schedule contained within the Provider's Quotation shall remain fixed throughout the Contract Period and shall not be subject to increase in accordance with inflation or any other matters (whether foreseeable or not) which may impact upon the cost to the Provider in delivering the Service. The Provider shall be deemed to have incorporated all matters potentially affecting the costs to the Provider in delivering the Service during the Contract Period into the Provider's Quotation.

- 20.2 Pursuant to Sub-Clause 20.1 above, the Authority shall not consider any claims for additional monies made by the Provider during the Contract Period irrespective of the reason for such claim. Consequently, the Provider shall be bound to deliver the Service throughout the Contract Period entirely for the Contract Sum and any failure to do so will be deemed a fundamental breach for which the provisions of Sub-Clause 21.2 to Sub-Clause 21.4 (Termination) will apply.

21. **TERMINATION**

- 21.1 If the Provider:

- 21.1.1 commits a fundamental breach of any of its obligations under the Contract; and/or
- 21.1.2 becomes bankrupt, or makes a composition or arrangement with its creditors or in respect of its company has a proposal of voluntary arrangement or a composition of debts, or scheme or arrangement approved in accordance with the Insolvency Act 1986; and/or
- 21.1.3 has an application made under the Insolvency Act 1986 to the Court for the appointment of an administrative receiver; and/or
- 21.1.4 has a winding-up order made, or (except for the purposes of amalgamation or reconstruction), a resolution for voluntary winding-up passed; and/or
- 21.1.5 has a provisional liquidator, receiver, or manager of its business or undertaking duly appointed; and/or
- 21.1.6 has an administrative receiver, as defined in the Insolvency Act 1986, appointed; and/or
- 21.1.7 has possession taken, by or on behalf of the holders of any debenture secured by a floating charge, or any property comprised in, or subject to, the floating charge; and/or
- 21.1.8 is in circumstances which entitle the court or creditor to appoint, or have appointed, a receiver, a manager, or administrative receiver, or which entitle the court to make a winding-up order; and/or
- 21.1.9 takes financial advantage of the relationship with an Applicant; and/or
- 21.1.10 receives disqualification or conviction under any legislation applicable to the provision of the Service; and/or
- 21.1.11 commits or causes the commission of any criminal offence in providing the Service; and/or
- 21.1.12 fails to comply in the performance of the Service with all applicable legal obligations in the fields of environmental, social or labour law; and/or
- 21.1.13 as a result of any misconduct or mismanagement on the Provider's part has a Regulatory Body make an order of any kind in relation to the Provider's affairs; and/or
- 21.1.14 has any registration which the Provider must maintain in order to provide all or any part of the Service withdrawn or cancelled; and/or
- 21.1.15 receives any reduction in quality rating; and/or
- 21.1.16 fails to comply with all DBS requirements in relation to employees engaged in the provision of the Service;

the Authority may, without prejudice to any accrued rights or remedies under the Contract or at Law, terminate this Contract and any other contract between the parties by notice in writing having immediate effect.

- 21.2 If the Contract is terminated as provided in Sub-Clause 21.1 above and is not reinstated, the Authority shall;
- 21.2.1 cease to be under any obligation to make further payment until the costs, loss and/or damage resulting from or arising out of the termination of the Contract shall have been calculated and provided such calculation shows a sum or sums due to the Provider;
 - 21.2.2 be entitled to repossess any of its materials, equipment, or other goods loaned or hired to the Provider and to exercise a lien over any of the materials, equipment, or other goods belonging to the Provider for any sum due from the Provider to the Authority;
 - 21.2.3 be entitled to engage and pay other persons to provide and complete the provision of the Service or any part thereof and to use all such Provider's materials, equipment, or other goods for the purposes thereof;
 - 21.2.4 be entitled to deduct from any sum or sums which would, but for Sub-Clause 21.2.1 above, have been due from the Authority to the Provider under this Contract or any other contract or be entitled to recover the same from the Provider as a debt, any loss or damage to the Authority resulting from or arising out of the termination of the Contract. Such loss or damage shall include the reasonable cost to the Authority of the time spent by its officers in terminating the Contract and in making alternative arrangements for the provision of the Service or any part thereof.
- 21.3 When the total cost, loss and/or damage resulting from or arising out of the termination of the Contract have been calculated and deducted so far as practicable from any sum or sums which would, but for Sub-Clause 21.2.1 above, have been due to the Provider, any balance shown as due to the Authority shall be recoverable as a debt, or alternatively, the Authority, subject to Clause 22 (Recovery of Sums Due to the Authority) shall pay to the Provider any balance shown as due to the Provider.
- 21.4 The rights of the Authority under this Clause 21 (Termination) are in addition to and without prejudice to any other rights the Authority may have whether against the Provider directly or pursuant to any guarantee, indemnity or bond.
- 21.5 If the Authority shall require the Provider to cease to provide all or a substantial part of the Service, the Authority may, notwithstanding Clause 3 (Variation to the Contract), at its sole discretion, terminate the Contract by thirty days (30) Days' notice in writing and repossess its materials, equipment, or other goods loaned or hired to the Provider. If the Contract is terminated under this Sub-Clause 21.5 neither the Authority nor the Provider shall have claims against the other in respect of any loss or damage resulting from or arising out of the termination of the Contract. The Provider shall be entitled to receive from the

Authority any sum or sums due in respect of work performed up to the time of termination of the Contract provided that throughout the period of notice the Provider shall cooperate with the Authority to minimise any adverse effect caused by the early termination of the Contract.

21.6 If the funding provided to the Authority or allocated by the Authority for the provision of the Service shall be reduced or withdrawn at any time during the Contract Period the Authority may, notwithstanding Clause 3 (Variation to the Contract), following consultation with the Provider:

21.6.1 require the Provider to cease to provide a substantial part of the Service or substantially vary the Service to be provided by the Provider, provided that the Service remains a similar service to that for which the Contract was awarded originally and provided that such variation is permitted within the Law and does not render the Contract materially different in nature or value from the Contract originally entered into; or

21.6.2 terminate the Contract by thirty (30) Days' notice in writing, or such other period as may be agreed between the parties, and repossess its materials, equipment, or other goods loaned or hired to the Provider. If the Contract is terminated pursuant to this Sub-Clause 21.6.2 neither the Authority nor the Provider shall have claims against the other in respect or any loss or damage resulting from or arising out of the termination of the Contract. The Provider shall be entitled to receive from the Authority any sum or sums due in respect of work performed up to the time of termination of the Contract provided that throughout the period of notice the Provider shall cooperate with the Authority to minimise any adverse effect caused by the early termination of the Contract.

21.7 The Authority shall be entitled to terminate the Contract by ninety (90) Days' notice in writing, or such other period as may be agreed between the parties, and repossess its materials, equipment, or other goods loaned or hired to the Provider and to enforce the provisions of Sub-Clause 21.2 above where:

21.7.1 the Contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with Regulation 72(9) of the Public Contracts Regulations 2015 ("the PCR");

21.7.2 the Provider has, at the time the Contract was awarded, been in one of the situations referred to in Regulation 57(1) of the PCR, including as a result of the application of Regulation 57(2) of the PCR and, therefore, should have been excluded from the procurement procedure; or

21.7.3 the Contract should not have been awarded to the Provider in view of a serious infringement of the obligations under the Treaties (as defined in the PCR) and the Public Contracts Directive that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of the Treaty on the Functioning of the European Union.

22. RECOVERY OF SUMS DUE TO THE AUTHORITY

Whenever under the Contract any sum of money shall be recoverable from or payable by the Provider to the Authority the same may be deducted from any sum then due or which at any time thereafter may become due to the Provider under this Contract or any other contract with the Authority.

23. ASSIGNMENT, SUB-CONTRACTING AND NOVATION

23.1 The Authority shall be entitled to assign the benefit of the Contract or any part thereof and shall give written notice of any assignment to the Provider.

23.2 The Provider shall not:

23.2.1 assign the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof;

23.2.2 sub-contract the provision of the Service or any part thereof to any person without the previous written consent of the Authority, which consent shall be in the absolute discretion of the Authority and if given, shall not relieve the Provider from any liability or obligation under the Contract and the Provider shall be responsible for the acts, defaults or neglect of any Sub-Contractor, its employees or agents in all respects as if they were the acts, defaults or neglect of the Provider, its employees or agents.

23.3 If the Provider shall be given permission to sub-contract all or any part of the Service the Provider shall ensure that such sub-contracting arrangement provides that the Provider shall pay the Sub-Contractor all sums due by the Provider to the Sub-Contractor within a specified period not exceeding thirty (30) Days from receipt by the Provider of a valid invoice.

23.4 The Provider shall not novate the Contract or any part thereof to any third party, including any successor body to the Provider, ("the Receiving Party") without the prior written consent of the Authority which consent shall be given or withheld in the total discretion of the Authority. Where the Authority does give consent to any novation the Provider shall ensure that at no cost to the Authority the Provider and the Receiving Party enter into a Novation Agreement with the Authority on terms determined or prior approved by the Authority and which terms, in the least, oblige the Receiving Party to fulfil all requirements of the Contract without any substantial modification to the terms of the Contract and without seeking any increase in the prices contained in the Provider's Quotation.

24. BANKRUPTCY, INSOLVENCY AND CORPORATE RESTRUCTURING

24.1 If the Provider becomes bankrupt or insolvent, or has a receiving order made against it or compounds with its creditors, or being a corporation, commences to be wound up (not being a members voluntary winding up for the purposes of amalgamation or reconstruction), or has an administration order made against it or carries on its business under an administrator, a receiver, a manager or liquidator for the benefit of its creditor or any of them, the Authority shall be entitled:

24.1.1 to terminate the Contract forthwith by notice to the Provider or to the

administrator, receiver, manager or liquidator or to any person in whom the Contract may become vested in which event the provisions of Sub-Clause 21.2 to Sub-Clause 21.4 (Termination) shall apply; or

24.1.2 to give such administrator, receiver, manager or liquidator or other person the option of carrying out the Contract subject to its providing a guarantee for the due and faithful performance of the Contract up to an amount of time agreed.

24.2 If there is universal or partial succession by an entity into the position of the Provider following corporate restructuring of the Provider (which term shall include takeover, merger, acquisition or insolvency) and such entity fulfils the criteria for qualitative selection established by the Authority, the Authority may at the Authority's entire discretion permit the new entity to take over the Contract for the remainder of the Contract Period provided that this does not entail any substantial modification to the terms of the Contract, including but not limited to, not causing any increase in the prices the Provider submitted as part of the Provider's Quotation. Alternatively, the Authority shall be entitled to terminate the Contract forthwith and without liability by notice to the Provider and/or the successor entity.

25. NOTICES

Any demand, notice, or other communication required to be given under the Contract shall be sufficiently served if served personally on the addressee, or if sent by prepaid first class recorded delivery post to the registered office or last known address of the party to be served therewith and if so sent shall, subject to proof to the contrary, be deemed to have been received by the addressee on the date of receipt is served personally or on the second Working Day after the date of posting.

26. WAIVER

Failure by the Authority at any time to enforce the provisions of the Contract or to require performance by the Provider of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part thereof or the right of the Authority to enforce any provision in accordance with its terms.

27. CONTRACT MONITORING AND RECORDS

27.1 The parties shall agree a programme of monitoring meetings at the commencement of the Contract. When the Authorised Officer has confirmed the terms of such monitoring meetings in writing to the Provider, attendance at such meetings shall be a contractual obligation under this Contract.

27.2 To enable the Authorised Officer to undertake monitoring of the Contract, the Provider shall provide to the Authorised Officer such relevant management information and other documentation as detailed in the Specification or otherwise notified to the Provider in writing at such intervals as provided in the Specification or at a frequency to be agreed between the Authorised Officer and the Provider from time-to-time.

27.3 Throughout the Contract Period the Provider shall actively self-monitor the provision of the Service and the Provider's performance in accordance with the requirements detailed in the Specification or as otherwise agreed in writing with the Authorised Officer. The Provider shall provide the Authorised Officer with evidence of self-monitoring on request.

27.4 The Provider agrees that the Authorised Officer shall monitor the Provider's performance throughout the Contract Period using such methods identified in the Specification and any other methods as the Authorised Officer deems appropriate. Should such monitoring identify any failure in performance by the Provider the Authorised Officer may treat this as a Default and take action pursuant to Sub-Clause 18.3 (Default).

27.5 **Workforce Monitoring**

At the commencement of the Contract and at such times throughout the Contract Period as reasonably requested by the Authority, the Provider shall provide to the Authorised Officer a report detailing the composition of the Provider's employees engaged in the provision of the Service.

27.6 **Staffing and Operational Records**

27.6.1 The Provider shall maintain current and accurate records of all employees who are, or who are to be, engaged in connection with, based at, or provide the Service. These records shall include employee attendances and shall differentiate between those engaged as operatives and those exercising supervision.

27.6.2 The Provider shall maintain current and accurate records of all work carried out in the provision of the Service.

27.7 All records produced pursuant to this Clause 27 (Contract Monitoring and Records) shall be open for inspection by the Authorised Officer or the Authorised Officer's representative at all reasonable times throughout the Contract Period and a copy of these records shall be provided to the Authorised Officer or the Authorised Officer's representative upon request, including for a period of up to six (6) years (or such other period as agreed in writing) following expiration or earlier termination of the Contract.

28. **DISPUTES AND MEDIATION**

28.1 Any dispute arising out of or in connection with this Contract or the performance of the Service by the Provider shall be notified by the aggrieved party to the other and the Authorised Officer and the Contract Manager shall endeavour to resolve any such dispute between them within twenty-one (21) Days of receiving written notification of the same.

28.2 If at the expiration of the twenty-one (21) Day period referred to in Sub-Clause 28.1 above the Authorised Officer and Contract Manager have failed to resolve the dispute, either party may, upon giving prior notice in writing to the other, refer such dispute to the Corporate Director of People for the Authority and a relevant Director of the Provider, who shall seek to resolve the dispute within twenty-one (21) Days of notification to them.

- 28.3 If at the expiration of the twenty-one (21) Day period referred to in Sub-Clause 28.2 above, the relevant Directors have failed to resolve the dispute, either party may, upon giving prior notice in writing to the other, refer such dispute to mediation in accordance with the Centre for Effective Dispute Resolution ("CEDR") Model Mediation Procedure.
- 28.4 Unless otherwise agreed between the parties within fourteen (14) Days of the decision to refer the dispute to mediation, the mediator shall be nominated by CEDR. To initiate the mediation a party shall serve notice in writing (an "ADR Notice") to the other party to the dispute requesting mediation. A copy of the ADR Notice shall also be sent to CEDR. Unless otherwise expressly agreed between the parties, the mediation shall not commence later than twenty-eight (28) Days' after the date of the ADR Notice.
- 28.5 No party may commence any court proceedings in relation to any dispute arising from this Contract until it has attempted to settle the dispute via mediation pursuant to this Clause 29 (Disputes and Mediation) and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay. For the avoidance of doubt, should mediation fail to result in a resolution of the dispute the parties shall then be permitted to pursue the matter via court proceedings.

29. JOINDER

Where a dispute has been referred to mediation or court proceedings pursuant to Clause 28 (Disputes and Mediation), and the Provider is in a related dispute with a Sub-Contractor which is substantially the same as the matter referred to mediation or court proceedings, the parties consent to the joinder of the Sub-Contractor as a party to the mediation or court proceedings and further agree that any proceedings shall be consolidated and/or held concurrently.

30. EXCLUSION OF THIRD PARTY RIGHTS

- 30.1 No person who is not a party to this Contract (including any employee, officer, agent, representative or Sub-Contractor of either party) shall have the right to enforce any term of this Contract which expressly or by implication confers a benefit on that person without the express prior agreement in writing of the parties, which agreement must refer to this Clause 30 (Exclusion of Third Party Rights).
- 30.2 Even if a person who is not a party to this Contract (including any employee, officer, agent, representative or Sub-Contractor of either party) has a right to enforce any term of this Contract by virtue of Section 1 of the Contracts (Rights of Third Parties) Act 1999, the parties may, notwithstanding Section 2 of the Contracts (Rights of Third Parties) Act 1999, vary or cancel this Contract by agreement between them without requiring the consent of such third party.

31. SEVERANCE

If any provision in this Contract is declared void or unenforceable by any court or other body of competent jurisdiction, or is otherwise rendered so by any

applicable Law, that provision shall to the extent of such invalidity or unenforceability be deemed severable and all other provisions of this Contract shall not be affected by such invalidity or unenforceability and shall remain in full force and effect.

32. PREMISES AND RELATIONSHIPS FOR THE DELIVERY OF THE SERVICE

32.1 The Provider shall be responsible for identifying and paying for all premises required to deliver the Service in accordance with the Specification.

32.2 The Provider shall be responsible for any external relationships (whether contractual, statutory or otherwise) the Provider may enter into in relation to the performance of the Service. Irrespective of such relationships, the Provider shall retain responsibility for the delivery of the Service pursuant to the Contract.

32.3 The Authority shall not be party to any relationships or arrangements the Provider enters into in order to discharge its responsibilities under the Contract. Further the Authority shall not be liable for any disputes or costs arising in respect of any relationships the Provider has with third parties. The Provider shall hold the Authority harmless from all disputes, costs, claims and/or liabilities that arise from any relationships the Provider enters into in relation to the Contract.

IN WITNESS hereof the parties have executed this Contract as a Deed on the date and year before written

EXECUTED AND DELIVERED AS A DEED by
Manjeet Gill as the **AUTHORITY'S**
OPERATIONAL DIRECTOR - HOUSING
for and on behalf of the **AUTHORITY**

.....
Manjeet Gill

In the presence of:

.....
Signature of witness

.....
Name of witness

Address of witness:
.....

.....
Occupation of witness

.....
.....
.....

EXECUTED AND DELIVERED AS A DEED
by

.....

.....

Print Name

As.....
and authorised signatory
for and on behalf of the PROVIDER

In the presence of:

.....
Signature of witness

.....
Name of witness

Address of witness:

.....

.....
Occupation of witness

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EXECUTED AND DELIVERED AS A DEED

by

.....

.....

Print Name

As.....
and authorised signatory
for and on behalf of the PROVIDER

In the presence of:

.....
Signature of witness

.....
Name of witness

Address of witness:

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.....
Occupation of witness

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THE SCHEDULE

Processing, Personal Data and Data Subjects

1. The contact details of the Controller's Data Protection Officer are: **[insert contact details]**
2. The contact details of the Processor's Data Protection Officer are: **[insert contact details]**
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 parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Provider is the Processor in accordance with Clause 8 (Data Protection and Caldicott Standard).
Subject matter of the processing	Personal information of applicants necessary to assess applications for homelessness assistance.
Duration of the processing	1 March 2021 to 28 February 2022
Nature and purposes of the processing	<p>The purpose of processing the data is to enable the assessment of applications pursuant to Part VII of the Housing Act 1996 to determine what, if any, duty under this Act is owed.</p> <p>This will include collection, disclosure, accessing, recording, storing, analyzing, interpreting and assessing data.</p> <p>In particular this will require recording details of telephone calls, sending secure emails, recording emails, sending and recording letters, obtaining other information to assess applications, directly viewing and updating electronic records on the London Borough of Redbridge Housing Systems, recording all data obtained to the above Housing Systems.</p>
Type of Personal Data being Processed	Name, address history, email, phone number, DoB, language, nationality, NI number, immigration documents, sex, banking details, Income and expenditure details, medical details, benefits entitlements, employment, schools, support needs and agencies, criminal record, photos, credit reference agency returns and other information necessary to comply with the London Borough of Redbridge's duty under Part VII of the Housing Act 1996.

Categories of Data Subject	Members of the public that approach the London Borough of Redbridge for housing assistance under Part VII of the Housing Act 1996.
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	<p>All data will be held on the London Borough of Redbridge electronic housing systems as directed. The provider is to securely delete existing copies of information held elsewhere, whether physically or electronically, within three months of saving it on the appropriate Redbridge Housing system.</p> <p>The Data Processor shall confirm to the Data Controller once the process of such deletion has been completed.</p>