**DATED \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**(1) DERBYSHIRE COUNTY COUNCIL**

AND

(2) RECIPIENT

**INFORMATION SHARING AGREEMENT**

**REF: CS/2016/DSSYC**

**PROVISION OF: Derbyshire Support Service for Young Carers and their Families**

**THIS AGREEMENT** is made\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

BETWEEN:

1. **DERBYSHIRE COUNTY COUNCIL**, whose principal place of business is at County Hall, Matlock, Derbyshire, DE4 3AG (the “**Council**”); and
2. **SUPPLIER,** a company registered in England and Wales (company number xxxxxxx), whose registered office is at address (the “**Recipient**”),

**WHEREAS:**

1. The Council wishes to provide certain confidential information to the Recipient which includes personal data (including sensitive personal data) of individuals engaged in the current delivery of services which are relevant to the procurement process for the Derbyshire Support Service for Young Carers and their Families service (CS/2016/DSSYC) (being “Personal Data”). References to “Data”, “Data Processor”, “Data Subject”, “Personal Data” and “Sensitive Personal Data” shall have the meaning given to such terms in the Act.
2. The Council and the Recipient each acknowledge that to enable the Recipient to consider whether to submit a tender and, if so, on what terms, it is necessary for the Recipient to receive Personal Data in relation to individuals engaged in the current delivery of services subject to the procurement process who may transfer to the successful tenderer under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended by the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 2014). The parties also acknowledge the need to fully protect such Personal Data whilst recognising the importance of processing this Data within the procurement process.
3. This Agreement sets out the legal basis upon which such Personal Data may be disclosed by the Council to the Recipient.

**IT IS HEREBY AGREED:**

1. Use and Permitted Disclosures
   1. The Recipient agrees to maintain as confidential and agrees not to use any part or the whole of any Personal Data directly or indirectly disclosed by the Council other than exclusively to consider whether to submit a tender and, if so, on what terms within the procurement process (“the Purpose”) and in accordance with the terms of this Agreement.
   2. The Recipient shall not, except with the Council’s prior written consent, reproduce, disclose or permit access to the Personal Data to any third party or parties other than to its employees or professional advisers where it is deemed to be on a need to know basis for the Purpose, wherein the Recipient undertakes:
      1. to notify such employees and/or professional advisors of the Recipient’s obligations under this Agreement; and
      2. to use its best endeavours to ensure that the employees and/or professional advisors involved comply with such undertakings and obligations including entering into any further information sharing agreements as the recipient deems necessary.
2. Data Protection
   1. The Recipient undertakes to comply at all times with the Data Protection Act 1998 (“the Act”) in relation to the Personal Data supplied to it.
   2. The parties acknowledge their respective duties under the Act and shall give all reasonable assistance to each other where appropriate or necessary to comply with such duties. In particular the parties will observe the requirements of the eight Data Protection Principles namely, in summary:
      1. Data must be fairly and lawfully processed and meet at least one of the criteria of schedule 2 of the Act and in the case of Sensitive Personal Data one of the criteria in schedule 3 of the Act;
      2. Data must be processed for limited purposes;
      3. Data must be adequate, relevant and not excessive;
      4. Data must be accurate and up to date;
      5. Data must not be kept for longer than necessary;
      6. Data must be processed in accordance with the Data Subject’s rights;
      7. Data must be kept securely with adequate protection against unlawful access, accidental loss, destruction, interception or theft; and
      8. Data must not be transferred outside the European Union unless adequate measures and protection are in place.
   3. To the extent that the Recipient is acting as a Data Processor on behalf of the Council, the Recipient shall, in particular, but without limitation:
      1. put in place appropriate technical and organisational measures against any unauthorised or unlawful processing of Personal Data supplied in accordance with the purpose, and against the accidental loss or destruction of or damage to such Personal Data;
      2. take reasonable steps to ensure that Staff who will have access to such Personal Data are properly trained as to their responsibilities under the Act;
      3. provide the Council with such information as the Council may reasonably require to satisfy itself that the Recipient is complying with its obligations under the Act;
      4. promptly notify the Council of any requests for disclosure of or access to the Personal Data;
      5. promptly notify the Council of any breach of the 7th Data Protection Principle; and
      6. ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council’s obligations under the Act.

2.4 Upon reasonable notice to the Recipient, the Council shall be entitled to audit the procedures of the Recipient (which shall include the right to enter the Recipient’s premises and access its systems, including IT systems) for the purpose of ensuring compliance with this Agreement and to satisfy itself that the Recipient is so complying.

1. Confidentiality Measures
   1. The Recipient shall afford the Personal Data no less protection than it affords its own and without prejudice to the generality of this obligation shall:
      1. keep all Personal Data, copies of Personal Data and any material generated from such information, separate from all other documents and records held by the Recipient; and
      2. keep all Personal Data in tangible or documented form in secure storage in locked premises; and
      3. not to use, produce, transform or store any of the Personal Data in any externally accessible computer or electronic system or transmit it in any form or by any means whatsoever outside its usual place of business; and
      4. not to reverse-engineer, decompile, disassemble, deconstruct or modify any Personal Data without the written permission of the Council.
2. Notification of Breach

4.1 The Recipient shall immediately inform the Council if it becomes aware of any breach of this Agreement or the Act and shall at the request of the Council, provide all such assistance in relation to this as the Council shall reasonably require, at the expense of the Recipient.

4.2 The Council shall immediately inform the Recipient of any similar such breach if it is likely to impact on the Purpose of this Agreement.

1. Destruction of Confidential Information
   1. The Recipient will promptly and securely destroy all Personal Data together with any copies thereof on request by the Council.
   2. In the absence of such request, the Recipient will promptly and securely destroy all Personal Data together with any copies thereof as soon as:
      1. the tender submission deadline passes in the event that the Recipient has not submitted a tender;
      2. the Recipient is notified that its tender has not been successful or its involvement in the procurement process has otherwise ended;
      3. the Recipient is notified that it has not been awarded a contract by the Council; or
      4. the Council abandons or otherwise brings to an end the procurement process.
   3. In the circumstances in which a contract has been awarded to the Recipient by the Council then the Recipient will continue to hold all Personal Data in accordance with the terms of this Agreement until it receives a request by the Council in accordance with clause 5.1, at which time the Recipient will promptly and securely destroy all Personal Data together with any copies thereof.
2. Termination and Suspension

6.1. Without prejudice to the Council’s rights set out elsewhere in this Agreement, the Council may:

* + 1. suspend or terminate this Agreement in the case of a breach being notified to them in accordance with Clause 4.1; or
    2. terminate this Agreement in the event of the procurement being aborted or the Recipient notifying the Council that they will be withdrawing from the procurement process.

1. Liability
   1. The Recipient shall indemnify and keep indemnified the Council against any liability, loss, damage, fines, costs, expenses (including legal expenses) which arise (directly or indirectly) from out of and/or in connection with the Recipient’s breach of this Agreement or the Act.
2. General
   1. The Contracts (Rights of Third Parties) Act 1999 shall not apply to this Agreement and no third party shall have the benefit of or the right to enforce any term of this Agreement.
   2. Any variation to this Agreement must be in writing and signed by the respective authorised signatories.
   3. This Agreement, 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 English law and each of the parties submits to the exclusive jurisdiction of the Courts of England and Wales with regard to any such issues or disputes.

**IN WITNESS WHEREOF** the parties have signed this Agreement on the day and year first above written.

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| Signed for and on behalf of  DERBYSHIRE COUNTY COUNCIL: | Signed for and on behalf of  RECIPIENT: |
|  |  |
| Name: | Name: Name |
| Position: | Position: Position |
| Date: | Date: Date |