Dated: 2025

London Fire Commissioner

and

[*Full legal name of supplier entity*]

Contract relating to the provision of Estates Professional Management Services (EPMS) for the Telecommunications Estate

REFERENCE: PROC/7496/25

OFFICIAL – Sensitive: Commercial

REFERENCE: PROC/[INSERT PROC NUMBER]

OFFICIAL – Sensitive: Commercial

**AGREEMENT**

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**THIS AGREEMENT** is made on the day of 2025

**BETWEEN:**

1. **LONDON FIRE COMMISSIONER** of 169 Union Street, London, SE1 0LL (the “**LFC**”); and
2. **[insert company name]**,a company registered in England and Wales (Company Number [insert company number]) with its registered office located at [insert registered address](the “**Contractor**”)

(each a “**Party**” an d together, the “**Parties**”).

**WHEREAS:**

1. The LFC published a Tender Notice on the Central Digital Platform ([insert notice number]) on [insert date] and the Procurement In-Tend portal on [insert date] inviting submission of tenders from organisations interested in providing the supply of Estates Professional Management Services (the “**Services**”).
2. The Contractor submitted the Contractor’s Proposals and the LFC has chosen the Contractor to supply the Services.
3. The Contractor has agreed to supply the Services, as more particularly set out in the Specification, on the terms and conditions set out in this Agreement.

**IT IS AGREED** as follows:

PART 1: PRELIMINARY

1. DEFINITIONS AND INTERPRETATION
   1. In this Agreement, unless otherwise provided or the context otherwise requires, capitalised expressions shall have the meanings set out in Schedule 1 (Definitions) or the relevant Schedule in which that capitalised expression appears.
   2. In this Agreement except where the context otherwise requires:
      1. the masculine includes the feminine and vice versa;
      2. a reference to a person includes natural persons, firms, partnerships, corporations, associations, organisations, governments, government bodies, states, foundations, and trusts and their successors and permitted assignees or transferees;
      3. the singular includes the plural and vice versa;
      4. a reference to any statute, enactment, order, regulation or other similar instrument in this Agreement shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, order, enactment, regulation or instrument;
      5. headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement;
      6. words and phrases with a first capital letter or any derivation thereof shall (as the context so requires) have the meanings set out in Schedule 1 (Definitions);
      7. a reference to any Clause, Condition, sub-clause, paragraph, Schedule, recital or annex is, except where expressly stated to the contrary, a reference to such Clause, Condition, sub-clause, paragraph, Schedule, recital or annex of and to this Agreement;
      8. save where stated to the contrary, any reference to this Agreement or to any other document shall include any permitted variation, amendment or suplement to such document;
      9. words preceding "include", “includes”, “included”, “including”, “in particular” or any similar expression shall be construed without limitation by the terms which follow those words;
      10. the words "in writing" and "written" shall be interpreted to include any document which is recorded in manuscript, typescript and any electronic communication (as defined in Section 15 of the Electronic Communications Act 2000);
      11. the words "day" and "month" mean calendar day and calendar month unless otherwise stated;
      12. times specified in the Agreement, and any variation in those times, or any other times reasonably laid down by the LFC Representative in respect of the Contractor’s obligations, shall be of the essence of the Agreement and any failure by the Contractor to adhere to such times shall (notwithstanding anything elsewhere contained in the Agreement) be a breach of this Agreement;
      13. all references to the Parties include their successors and permitted assignees;
      14. except as otherwise expressly provided in this Agreement, all remedies available to the Contractor or to the LFC for default (of any nature or severity) under this Agreement are cumulative and may be exercised concurrently or separately and the exercise of any one remedy shall not exclude the exercise of any other remedy;
      15. any reference to any British Standard shall also include any equivalent European or International standard; and
      16. unless otherwise agreed in writing by the LFC, this Agreement and its terms overrides any of the Contractor's terms and conditions of supply for Service which the Contractor may purport to apply under any confirmation of order or similar document.
   3. The Parties acknowledge and agree that this Agreement is intended to benefit all of the Parties equally and have had the opportunity to take legal advice. Accordingly, the rule of construction known as "contra proferentem" shall not apply.
   4. The Schedules form part of this Agreement and have effect as if set out in full in the body of this Agreement.
   5. **Responsibility for Related Parties**
      1. Subject to the provisions of this Agreement, the Contractor shall be responsible as against the LFC for the acts and omissions of the Contractor Related Parties as if they were the acts and omissions of the Contractor and the LFC shall be responsible as against the Contractor for the acts and omissions of the LFC Related Parties as if they were the acts and omissions of the LFC. The Contractor shall, as between itself and the LFC, be responsible for the selection of any Contractor Related Party.
   6. **Approval**
      1. Neither the giving of any approval, consent, examination, acknowledgement, knowledge of the terms of any agreement or document nor the review of any document or course of action by or on behalf of the LFC, nor the failure of the same, shall unless otherwise expressly stated in this Agreement, relieve the Contractor of any of its obligations under the Contract Documents or of any duty which it may have hereunder to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the approval, consent, examination, acknowledgement or knowledge.
      2. Where in this Agreement consent is to be given such consent must be in writing unless the relevant clause in the Agreement provides otherwise.
2. PRECEDENCE OF DOCUMENTS
   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 LFC Representative who shall thereupon issue to the Contractor appropriate instructions in writing and the Contractor shall carry out and be bound by such instructions.
   2. If there is any conflict or ambiguity between the terms of this Agreement, then a term contained in a document higher in the following list shall have priority over one contained in a document lower in the list:
      1. these Conditions and Schedule 1 (Definitions);
      2. Schedule 2 (Specification);
      3. any other Schedules other than Schedule 4 (Contractor’s Proposals) and Schedule 6 (Policies and Standards);
      4. Schedule 6 (Policies and Standards); and
      5. Schedule 4 (Contractor’s Proposals).
   3. If the standards in the Method Statements of Schedule 4 (Contractor’s Proposals) are greater than those in Schedule 2 (Specification), then the Method Statements prevail.
3. NON-EXCLUSIVITY
   1. This Agreement is not exclusive, and the Commissioner shall be entitled to procure services of the same or similar nature to the Services from any third party or to carry out such services itself.
4. TERM
   1. The Agreement shall commence on the Commencement Date and shall continue, unless terminated earlier in accordance with its terms or extended in accordance with Clause 4.2, until the Expiry Date.
   2. The LFC may at its absolute discretion extend the Term for the period of the Further Term by giving written notice to the Contractor at least three months prior to the Expiry Date.
      1. Where this Agreement is extended in accordance with clause 4.2, the Expiry Date shall accordingly be deemed to be the date of the expiry of the Further Term, and the Contractor shall continue to provide the Services at the Charges prevailing on the date of the extension or as revised in accordance with Clause 56 (No Variations).
5. PRE-COMMENCEMENT AND IMPLEMENTATION [NOT USED]
6. **DUE DILIGENCE**
   1. The Contractor shall be deemed to have satisfied itself that it has gathered all information necessary to perform its obligations under this Agreement. Consequently the Contractor shall be deemed to have understood the nature and extent of the Service and to have satisfied itself that it will be able to provide the Service in full compliance with its obligations under this Agreement.
   2. Prior to signing any CCN (as set out in the Change Control Procedure at Schedule 7) the Contractor shall ensure that it has obtained all such information necessary to ensure that the acknowledgements set out in this Clause 6 shall apply in relation to the Agreement as amended by such CCN.
   3. The Contractor acknowledges that there shall not be any due diligence or joint verification after the Commencement Date.
   4. No warranty or undertaking is given by the LFC as to the accuracy, completeness, adequacy or fitness for purpose of any information disclosed to or made available to the Contractor (whether directly or indirectly) in the course of any due diligence in accordance with this Agreement, or that such information constitutes all of the information relevant or material to the Service. The Contractor acknowledges that it has and (as the case may be) shall make its own enquiries to satisfy itself as to the accuracy of the information supplied to it in connection with this Agreement. Accordingly, all liability on the part of the LFC in connection with:
      1. any information, documents or data provided to or made available to the Contractor (whether directly or indirectly);
      2. any representations or statements made by or on behalf of the LFC; and
      3. in connection with such due diligence

is, to the maximum extent permitted by Law, hereby excluded.

* 1. Where the information supplied by or on behalf of the LFC is incorrect or insufficient the Contractor acknowledges that it shall not be relieved of any of its obligations under this Agreement or be entitled to claim against the LFC, except to the extent of any fraudulent misrepresentation made by, or with the actual knowledge of the LFC.

1. WARRANTIES AND REPRESENTATIONS
   1. Without prejudice to any other warranties expressed elsewhere in this Agreement or implied by law, the Contractor warrants and represents to the LFC that on the date hereof:
      1. it is properly constituted and incorporated under the laws of England and Wales and has the corporate power to own its assets and to carry on its business as it is now being conducted;
      2. it has full capacity and authority and all necessary licences, permits and consents to enter into and to exercise its rights and perform its obligations under this Agreement and has no conflicting obligations to any third party (whether contractual or otherwise);
      3. the Agreement is executed by a duly authorised representative of the Contractor;
      4. all action necessary on the part of the Contractor to authorise the execution of and the performance of its obligations under the Contract Documents has been taken or, in the case of any Contract Document executed after the date of this Agreement, will be taken before such execution;
      5. the obligations expressed to be assumed by the Contractor under the Contract Documents are, or in the case of any Contract Document executed after the Commencement Date will be, legal, valid, binding and enforceable to the extent permitted by law and each Contract Document is or will be in the proper form for enforcement in England;
      6. the execution, delivery and performance by it of the Contract Documents does not contravene any provision of:
         1. any existing Legislation either in force, or enacted but not yet in force, binding on the Contractor;
         2. the memorandum and articles of association of the Contractor;
         3. any order or decree of any court or arbitrator which is binding on the Contractor; or
         4. any obligation which is binding upon the Contractor or upon any of its assets or revenues;
      7. no claim is presently being assessed and no litigation, arbitration or administrative proceedings are presently in progress or, to the best of the knowledge of the Contractor, pending or threatened against it or any of its assets which will or might have a material adverse effect on the ability of the Contractor to perform its obligations under any Contract Document;
      8. it is not the subject of any other obligation, compliance with which will or is likely to have a material adverse effect on the ability of the Contractor to perform its obligations under any Contract Document;
      9. no proceedings or other steps have been taken and not discharged (nor, to the best of the knowledge of the Contractor, threatened) for its winding-up or dissolution or for the appointment of a receiver, administrative receiver, administrator, liquidator, trustee or similar officer in relation to any of its assets or revenues;
      10. the copies of the Contract Documents which the Contractor has delivered or, when executed, will deliver to the LFC are or, as the case may be, will be true and complete copies of such documents and there are not in existence any other agreements or documents replacing or relating to any of the Contract Documents which would materially affect the interpretation or application of any of the Contract Documents;
      11. all written statements and representations in any written submissions made by the Contractor as part of the procurement process, including without limitation its response to any conditions of participation, its Contractor’s Proposals and any other documents submitted remain true and accurate except to the extent that such statements and representations have been superseded or varied by this Agreement or to the extent that the Contractor has otherwise disclosed to the LFC in writing prior to the Commencement Date;
      12. the Contractor and its sub-contractors have not and will not violate any applicable Laws or Standards;
      13. the Contractor is aware of the purposes for which the Services are required and acknowledges that the LFC is reliant upon the Contractor’s expertise and knowledge in the provision of the Services;
      14. all materials, equipment and goods used or supplied by the Contractor in connection with the Agreement shall be sound in quality and design and fit for their purpose and in accordance with the Contractor’s Proposals;
      15. any software, electronic or magnetic media, hardware or computer system used or supplied by the Contractor in connection with Agreement:
          1. shall not have its functionality or performance affected, be made inoperable or be more difficult to use by reason of any date related input or processing in or on any part of such software, electronic or magnetic media, hardware or computer system;
          2. shall not cause any damage, loss or erosion to or interfere adversely or in any way with the compilation, content or structure of any data, database, software or other electronic or magnetic media, hardware or computer system used by, for or on behalf of the LFC, on which it is used or with which it interfaces or comes into contact; and
          3. any variations, enhancements or actions undertaken by the Contractor in respect of such software, electronic or magnetic media, hardware or computer system shall not affect the Contractor’s compliance with this warranty;
      16. all documents, drawings, computer software and any other work prepared or developed by the Contractor or supplied to the LFC under the Agreement shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.
      17. all sub-contractors have full capacity power and authority to perform their obligations in connection with this Agreement and have no conflicting obligations to any third party (whether contractual or otherwise);
      18. all statements and representations in pre-contractual proposals in the Contractor's response to any tender documents when made by the Contractor were, in the context they were given at the time, true, complete and accurate in all material respects, and that the Contractor has advised the LFC of any fact, matter or circumstance of which it has become aware since making such proposals which would render any such statement or representation false or misleading;
      19. the Method Statements complies with and shall comply with and meet the LFC’s service requirements contained in this Agreement throughout the Term; and
      20. except as provided in this Agreement, there are no express warranties, representations, undertakings or conditions (statutory or otherwise) made by either Party and all warranties, representations, undertakings and conditions (statutory or otherwise) implied to be made by either Party, including implied warranties as to satisfactory quality and fitness for a particular purpose, are hereby excluded to the maximum extent permitted by Law,

and the LFC relies upon such warranties and representations.

* 1. For the purposes of construing the warranties in Clause 7.1, references to the Services include any part of the Services. Each warranty shall be construed as a separate warranty and shall not be limited or restricted by reference to, or reference from, the terms of any other warranty or any other term of the Agreement.
  2. Without prejudice to the LFC’s rights (whether under the Agreement or otherwise) if the Contractor is in breach of any of its warranties, the Contractor shall, if required to do so by the LFC, promptly re-supply the Services or part of them at its own expense to ensure compliance with such warranties.

1. GUARANTEE OR BOND
   1. If required by the LFC, the Contractor shall provide, at its expense:
      1. a parent company guarantee (from the Contractor's ultimate parent company unless otherwise agreed with the LFC) in the form set out in Schedule 11; or
      2. a performance bond in a form to be advised by the LFC.
   2. The LFC shall not be obliged to make any payments under this Agreement until the parent company guarantee and/or performance bond have been provided in a form satisfactory to the LFC.

PART 2: THE SERVICE

1. implementation period
   1. During the Implementation Period the Contractor shall work with the LFC, LFC Related Parties and other contractors in respect of activities in preparation for the Service Commencement Date, including without limitation and at its own expense:
      1. arrange and attend as many meetings with the LFC and any former/other contractors as are reasonably necessary for the successful handover of the Services. Such meetings shall include as applicable senior representatives of the Contractor (including the Contractor Representative), any of the Contractor's Sub-Contractors in so far as the same will be directly providing any part of the Services, representatives of the LFC (including the LFC Representative), representatives of any former contractors (if applicable) and any LFC Related Parties (as applicable);
      2. make all necessary provisions required relating to equipment, labour, Sub-Contracts, supplies and materials in order to provide the Service from the Service Commencement Date;
      3. liaise as appropriate with the LFC, any other relevant organisation to ensure smooth transitional arrangements;
      4. provide the LFC with:
         1. proof of insurances held;
         2. the Parent Company Guarantee and/or Bond, if applicable, in the agreed form; and
         3. details of the identities, positions and responsibilities and contact details of all Relevant Staff including, in particular, the Contractor Representative and authorised deputy; and
      5. undertake any necessary fine tuning of the Method Statements and submit to the LFC for approval.
2. SERVICE PROVISION
   1. With effect from the Service Commencement Date the Contractor shall provide the Services, procuring that the Services are performed to the following standards (the “**Service Standard**”):
      1. the Services are provided in accordance with all the requirements of this Agreement, the Specification, the Method Statements, Good Industry Practice, relevant guidance, all applicable LFC Policies, and Legislation;
      2. the Services are provided to meet the Key Performance Indicators;
      3. the Contractor obtains and maintains all necessary Consents which are required for the provision of the Services and shall provide the LFC with a copy of all such Consents if requested to so do by the LFC; and
      4. the Service is at all times performed:
         1. exercising the level of skill, care and diligence reasonably to be expected from an appropriately qualified and competent professional providing services of a similar type and scope as the Services;
         2. faithfully and diligently perform those duties and exercise such powers consistent with them which are from time to time necessary in connection with the provision of the Services;
         3. in a manner that is not reasonably likely to be injurious to health or to cause damage to property;
         4. in a manner consistent with the LFC discharging its statutory duties to the extent that these may have an effect on the Services and as set out in the Specification;
         5. in a manner which could not bring the LFC into disrepute;
         6. in a manner consistent with and to ensure compliance with any applicable byelaws in so far as the Contractor is made aware of the same by the LFC from time to time;
         7. by appropriately qualified, supervised, competent and trained personnel;
         8. keep detailed records of all acts and things done by it in relation to the provision of the Service and upon request will make such records available for inspection by the LFC and/or provide copies;
         9. in compliance with all instructions issued in accordance with this Agreement by or on behalf of the LFC by the LFC Representative and which they are empowered to issue under this Agreement;
         10. in full co-operation with the LFC and its contractors;
         11. it has sufficient Contractor Personnel at all times to meet its obligations under the Agreement and that such Contractor Personnel are of a suitable level of seniority and are sufficiently trained and qualified in the range of skills required; and
         12. all Contractor Personnel are courteous and polite and helpful to the public and officers at all times.
   2. The Contractor’s performance of the Service and compliance with the Service Standard shall be monitored in accordance with the agreed procedure in Schedule 10 (Performance Monitoring System).
   3. The Contractor shall have in place the Service Continuity Plan and be capable of providing the Service Continuity Services in accordance with Schedule 14 (Service Continuity) throughout the Term.
   4. The Parties shall, at all times, act in and with complete honesty towards each other and their respective staff and employees. The Contractor and the LFC recognise that the success of the Service requires co-operation between them and representatives of each Party and shall discuss and deal with the Service in good faith and shall use their respective reasonable endeavours to resolve any disagreement arising between them relating to the Service.
   5. The Contractor shall not be relieved or excused of any responsibility, liability or obligation under this Agreement by the appointment by the Contractor of any Sub-Contractor. The Contractor shall be responsible for the selection, pricing, performance, acts, defaults, omissions, breaches and negligence of all its Sub-Contractors, employees and agents. All references in this Agreement to any act, default, omission, breach or negligence of the Contractor shall be construed accordingly to include any such act, default, omission, breach or negligence of any such employees, agents or Sub-Contractors.
   6. Neither the giving of any approval, consent, examination, acknowledgement, knowledge of the terms of any agreement or document nor the review of any document or course of action by or on behalf of the LFC, shall unless otherwise expressly stated in this Agreement, relieve the Contractor of any of its obligations under the Contract Documents or of any duty which it may have hereunder to ensure the correctness, accuracy or suitability of the matter or thing which is the subject of the approval, consent, examination, acknowledgement or knowledge.
   7. The Contractor shall procure, maintain and observe all approvals, required to provide the Services. Failure to procure, maintain and/or observe all such approvals shall constitute a Contractor Default and shall entitle the LFC to terminate this Agreement in accordance with Clause 29 (Termination).
   8. **Additional Services**
      1. In addition to the Services, the Contractor shall provide, at no additional cost to the LFC any services, functions and responsibilities (including any incidental services functions or responsibilities) not specifically set out in the Specification, but which are within the scope of the Services and which are reasonable.
      2. The Contractor will perform any additional services not described as part of the Services if required by the LFC, and in doing so, payment for such additional services shall be made at the rates set out in the Contractor’s Proposals or in the absence of such rates shall be as reasonably agreed between the LFC and the Contractor prior to the Contractor carrying out such additional services.
   9. **Publicity**
      1. The LFC may publish information about the Services as it may deem appropriate from time to time and may provide copies and details of the Agreement to any government department or other body having the purpose of compiling precedents. The LFC shall prior to publication in accordance with this Clause 10.9 use its reasonable endeavours to consult with the Contractor about the content of the publication if the Contractor’s identity is disclosed in the publication.
      2. Unless the LFC has given its prior written approval, the Contractor shall not by itself, its employees or agents, and shall procure that its Sub-Contractors shall not:
         1. communicate with representatives of the press, television, radio or other communications media on any matter concerning this Agreement; and
         2. permit photography or filming in or upon any property used in relation to the Agreement.
      3. Except where the Contractor is promoting its business generally, the Contractor shall ensure that all branding in relation to the Service complies with:
         1. the Press and PR Protocol set out in Schedule 12;
         2. the Contractor’s branding policies; and
         3. the usage of the Contractor’s name and logo.
3. CONTRACTOR’S PROPOSALS AND METHOD STATEMENTS
   1. **Priority**

For the avoidance of doubt, the Specification shall at all times have priority over the Contractor’s Proposals, which include the Method Statements, and the Contractor shall be obliged to comply with the Specification and provide the Services in accordance with the Specification.

* 1. **Amendments**
     1. The Contractor may not make any material amendment to any of the Contractor’s Proposals or Method Statements unless:
        1. an amendment is strictly necessary to comply with Legislation, the Specification, any relevant licences or consents or Good Industry Practice; and
        2. it has obtained the prior consent of the LFC.
     2. The LFC may propose an amendment to any Method Statements at any time, which shall be regarded as an LFC RFC (in accordance with Schedule 7 (Change Control Procedure)) unless the amendment arises from Legislation or from a Performance Failure.
     3. The receipt or approval of any proposal for any modification or any supporting or further information shall not constitute a waiver or variation by the LFC of any obligation of the Contractor under this Agreement and the Contract Documents and the Specification.
     4. For the avoidance of doubt, any amendment to the Contractor’s Proposals and Method Statements shall not comprise a Change, unless otherwise agreed between the Parties.

1. ACCESS TO PREMISES
   1. In the event that, and to the extent that, the Contractor is to provide all or any part of the Services under this Agreement from its own premises, the Contractor shall ensure that such premises are safe, secure and suitable for the provision of the Services. Any equipment belonging to the LFC shall be clearly marked as being the property of the LFC.
   2. Any land or premises (including temporary buildings) made available to the Contractor by the LFC in connection with the Agreement (“LFC Premises”), shall be made available to the Contractor free of charge and shall be used by the Contractor solely for the purpose of performing its obligations under this Agreement. The Contractor shall have the use of such LFC Premises as licensee and shall vacate the same on completion, termination or abandonment of the relevant Services, the Agreement, or where a variation to the Agreement or these terms of access requires such vacation.
   3. The Contractor shall not use the LFC Premises for any purpose or activity other than the provision of the Services.
   4. Subject to the operational requirements of the LFC, the LFC will give to the Contractor and to those persons employed by or on behalf of the Contractor such access to the LFC Premises as may be necessary for the proper performance of the Services. The LFC will comply with its duties under the Health and Safety at Work Act 1974, but the LFC gives no warranty as to the safety of the working conditions in which such persons will be required to work and the Contractor shall at all times be responsible for ensuring that such persons are aware of the safe working practices to the extent that the prevailing conditions allow.
   5. The LFC is responsible for maintaining the security of LFC Premises in accordance with its standard security requirements. The Contractor shall comply with all of the LFC’s security requirements while on LFC Premises and shall ensure that all of its Contractor Personnel comply with such requirements.
   6. Upon request, the LFC shall provide the Contractor with details of its security procedures. On occasion the LFC shall temporarily devolve responsibility for the maintenance of the security requirements to the Contractor. The LFC shall inform the Contractor in writing of the start and end periods of the devolvement of responsibility.
   7. The Contractor shall hold access cards as required by the LFC. The Contractor shall be responsible for the safekeeping of any passes and other means of access provided to the Contractor by the LFC and shall only permit such passes and other means of access to be given to those of the Contractor’s employees whose names and addresses have been supplied to the LFC and then only to the extent required for the purposes of providing the Services. In addition, the Contractor shall ensure that the LFC is informed immediately of the loss of any passes and other means of access and shall reimburse to the LFC any cost of replacement and/or any reasonable security measures implemented as a result of such loss.
   8. The Contractor shall return all passes provided by the LFC at the end of the term of the Agreement or upon earlier termination of the Contractor’s employment. The Contractor shall ensure that all keys and passes are returned to the LFC when a Contractor’s employee ceases to be employed by the Contractor.
   9. The LFC reserves the right under this Agreement to refuse to admit to any LFC Premises any of the Contractor Personnel who fail to comply with any of the LFC’s policies and standards referred to in Schedule 16 or any Contractor Personnel who the LFC has agreed to be substituted under this Agreement.
   10. The Contractor shall (and shall ensure that their employees, servants, agents, Contractors or sub-contractors) observe and comply with such rules and regulations as may be in force at any time for the use of such LFC Premises as determined by the LFC, and the Contractor shall pay for the cost of making good any damage caused by the Contractor, its employees, servants, agents, suppliers or sub-contractors other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.
   11. The Parties agree that there is no intention on the part of the LFC to create a tenancy of whatsoever nature in favour of the Contractor or its employees, servants, agents, suppliers or sub-contractors and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to the Agreement, the LFC retains the right at any time to use in any manner the LFC sees fit any LFC Premises owned or occupied by it.
   12. The LFC reserves the right under this Agreement to instruct any of the Contractor Personnel and the Contractor to leave any LFC Premises at any time for any reason and such Contractor Personnel shall comply with such instructions immediately.
2. INTELLECTUAL PROPERTY
   1. Except as expressly set out in this Agreement, during the course of this Agreement:
      1. the LFC shall not acquire any right, title or interest in or to the Intellectual Property Rights of the Contractor or is licensors in:
         1. the Contractor’s Materials;
         2. any Background IPR owned by the Contractor; and
      2. the Contractor shall not acquire any right, title or interest in or to the Intellectual Property Rights of the LFC or its licensors in:
         1. the LFC Software;
         2. LFC’s Data;
         3. the Database;
         4. LFC’s Materials; and
         5. Third Party Software.
   2. Nothing in this Agreement confers upon the Contractor any right, title or interest in or to any data or other information or documents or to any Intellectual Property subsisting therein which is supplied to or otherwise furnished to the Contractor in connection with the performance by it of its obligations under this Agreement and the Contractor shall only use the same as is necessary to perform its obligations under this Agreement and for no other purpose whatsoever.
   3. The Contractor shall not have any right to use the LFC’s names, logos or trademarks on any of its products or services, without the LFC’s prior written consent, and where permitted, use will be subject to such terms as the LFC may require.
   4. The Contractor acknowledges and agrees that any and all Existing Intellectual Property belongs to and is vested in or is otherwise validly licensed to the LFC and the Contractor shall have no rights in or to the Existing Intellectual Property.
   5. The Contractor acknowledges and agrees that any and all Developed Intellectual Property shall belong to or vest in the LFC. The Contractor shall procure to be done all such further acts and things and at its own expense execute all such further deeds and documents as the LFC shall reasonably require to document, secure, acknowledge or protect the LFC’s right of ownership pursuant to this Clause.
   6. As soon as practicable after the creation of any Developed Intellectual Property the Contractor shall inform the LFC of its creation and shall at the request of the LFC provide to the LFC copies of all Developed Intellectual Property including where relevant source materials and associated documentation.
   7. The Contractor shall indemnify and keep indemnified the LFC against all claims, demands, actions, costs, expenses (including but not limited to legal costs and disbursements on a solicitor and client basis) losses and damages arising from or incurred by reason of any infringement or alleged infringement (including but not limited to the defence of such alleged infringement of any Intellectual Property) in connection with the Contractor’s obligations and the receipt of the Service under this Agreement.
3. THE LFC’S DATA AND SECURITY REQUIREMENTS
   1. The Contractor acknowledges the LFC’s ownership of and right to reserve all rights to any Intellectual Property which may subsist in LFC’s Data. The Contractor shall not delete or remove any copyright notices contained within or relating to the LFC’s Data.
   2. The Contractor shall not store, copy, disclose or use the LFC’s Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the LFC.
   3. The Contractor and the LFC shall each take reasonable precautions (having regard to the nature of their other respective obligations under this Agreement) to preserve the integrity of the LFC’s Data and to prevent any corruption or loss of the LFC’s Data.
   4. For the avoidance of doubt, the Contractor shall not acquire any right in, or title to, any part of the LFC’s Data, whether existing prior to the Commencement Date or created after such date.
   5. The Contractor shall not delete or remove any proprietary notices contained within or relating to the LFC’s Data.
   6. The Contractor shall not and shall procure that the Sub-Contractors and Employees shall not store, copy, disclose, or use the LFC’s Data except as strictly necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the LFC.
   7. The Contractor shall comply with the LFC’s security requirements as provided from time to time.
   8. The LFC shall notify the Contractor of any changes or proposed changes to the Baseline Security Requirements.
   9. If the Contractor believes that a change or proposed change to the Baseline Security Requirement will have a material and unavoidable cost implication to the Services, it may submit a Change Request. In doing so, the Contractor must support its request by providing evidence of the cause of that increased cost and the steps that it has taken to mitigate these costs. Any changes to the Charges shall then be agreed in accordance with the Change Control Procedure.
   10. Until and/or unless a change to the Charges is agreed by the LFC pursuant to Schedule 7 (Change Control Procedure) the Contractor shall continue to perform the Services in accordance with its existing obligations.
   11. The Contractor shall ensure that any system on which the Contractor holds any LFC data, including back-up data, is a secure system that complies with the Security Requirements.
   12. The Contractor shall ensure that, when disposing of any hardware during the course of performing the Services, it shall erase from any computers, storage devices and storage media any software containing all LFC Data.
   13. If the LFC Data is corrupted, lost or sufficiently degraded as a result of the Contractor’s Default so as to be unusable, the LFC may:
       1. require the Contractor (at the Contractor's expense) to restore or procure the restoration of the LFC Data and the Contractor shall do so as soon as practicable but not later than twenty-four (24) hours from the occurrence of the corruption, loss or degradation; and/or
       2. itself restore or procure the restoration of LFC Data and shall be repaid by the Contractor any reasonable expenses incurred in doing so.
   14. The Contractor shall preserve the integrity of LFC Data and prevent the corruption or loss of LFC Data at all times that the relevant LFC Data is under its control or the control of any Sub-contractor.
   15. The Contractor shall take responsibility for preserving the integrity of that LFC Data and preventing the corruption or loss of that LFC Data. If at any time the Contractor suspects or has reason to believe that any LFC Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Contractor shall notify the LFC immediately and inform the LFC of the remedial action the Contractor proposes to take.
4. **LFC ASSETS** 
   1. Where the LFC for the purpose of the Agreement issues or provides access to vehicles and equipment for the provision of the Services (**“LFC Assets”**) free of charge to the Contractor such property shall be and remain the property of the LFC or, if not the LFC, its respective owner.
   2. The Contractor shall not in any circumstances have a lien on the LFC Assets and the Contractor shall take all reasonable steps to ensure that the title of the LFC (or that of any of its other relevant suppliers) to such LFC Assets and the exclusion of any such lien are brought to the notice of all sub-contractors and other persons making use of the LFC Assets.
   3. Any LFC Assets made available or otherwise received by the Contractor shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies the LFC otherwise within twenty-four (24) hours of receipt. The Contractor shall maintain all LFC Assets in good order and condition, excluding fair wear and tear, and shall use LFC Assets solely in connection with the Services and for no other purpose.
   4. The Contractor shall ensure the security of all LFC Assets, whilst in the Contractor’s possession, either on its own premises or the LFC Premises or elsewhere during the performance of the Agreement, in accordance with the LFC’s reasonable security requirements as required from time to time. The Contractor shall be liable for any and all loss of or damage (excluding fair wear and tear) to any LFC Assets resulting from or arising out of any act or omission of the Contractor, unless the Contractor is able to demonstrate that such loss or damage was caused by the negligence or default of the LFC.
   5. The Contractor’s liability set out in this Clause 15 shall be reduced to the extent that such loss or damage was contributed to by the negligence or default of the LFC. The Contractor shall inform the LFC within twenty-four (24) hours of becoming aware of any defects appearing in or losses or damage occurring to LFC Assets.
5. HEALTH AND SAFETY
   1. The Contractor, in performing the Services, shall ensure that it and all Contractor Related Parties shall:
      1. comply with all applicable Health and Safety Legislation including without limitation compliance with the requirements under the Management of Health and Safety at Work Regulations 1999 to carry out a suitable and sufficient risk assessment;
      2. comply with all applicable health and safety precautions necessary including all safe methods of work in order to protect the health and safety of all Contractor Personnel, LFC Related Parties, and any other persons including (without limitation) members of the public;
      3. comply with its health and safety plan as developed, maintained and updated from time to time;
      4. comply with the LFC’s health and safety policies as amended and notified to the Contractor from time to time;
      5. be responsible for the suitable and safe use of the equipment used in the provision of the Services; and
      6. comply with all reasonable instructions given to it by the LFC and/or the police and/or fire officers concerning matters arising out of or connected to the Services and representing a danger to persons or property.
   2. For the avoidance of doubt the LFC shall not be obliged to make and the Contractor shall not be entitled to receive any additional payment by reason of:
      1. any steps which the LFC requires the Contractor to take for health or safety reasons (including at the LFC’s request, the appointment of an independent health and safety adviser to review the Contractor’s working procedures); and/or
      2. any part of the Services being omitted because of a stoppage required by the LFC due to health or safety reasons.
   3. The Contractor shall comply with the requirements of the Specification in respect of reporting health and safety incidents including without limitation:
      1. notify the LFC of any relevant new hazard or any relevant special precaution found to be necessary, and any actions required to be taken by the LFC;
      2. notify the LFC promptly of all health and safety incidents and accidents relating to the Service reportable under the Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 1995 together with any serious health and safety incidents and accidents involving member of the public or the LFC’s employees and shall confirm in writing to the LFC any action taken by the Contractor or recommended to be taken by the LFC to prevent a reoccurrence;
      3. keep a full record of all health and safety incidents and accidents relating to the Services which shall be available for inspection by the LFC upon reasonable notice; and
      4. promptly, upon it becoming aware, provide the LFC with full details of any significant unsafe event which relates in any way to the Services.

PART 3: EMPLOYEES

1. TUPE
   1. The provisions of Schedule 9 (TUPE and Pensions) shall apply. **[NOT USED]**
2. EMPLOYEES
   1. The Contractor shall comply with the provisions of Schedule 16 (Contractor Personnel).
   2. **Contract Representative**
      1. The Contractor shall employ a representative the identity of whom will be subject to the prior approval of the LFC (not to be unreasonably withheld or delayed) to act as the Contractor Representative during the Term. The Contractor Representative shall be a dedicated role.
      2. The Contractor Representative shall have expertise required to deliver the Services and all other members of the management and supervisory and management team shall possess the formal and practical qualifications appropriate to their tasks.
      3. The Contractor Representative shall possess the formal and practical qualifications appropriate to their tasks.
      4. The Contract Representative shall be the authorised representative of the Contractor and be deemed to be empowered on behalf of the Contractor for the purposes connected with this Agreement.
      5. The Contractor Representative shall be entitled to appoint one or more persons to act as their deputy and in the event that they do so shall notify the LFC accordingly in writing and shall stipulate in such notice the name, telephone number email address and the responsibilities allocated to such deputy.
      6. The Contractor Representative shall be available for regular meetings with the LFC and/or relevant stakeholder groups as and when required.
      7. The Contractor Representative shall have full authority to act on behalf of the Contractor for all purposes of this Agreement. The LFC and the LFC Representative shall be entitled to treat any act or omission of the Contractor Representative in connection with this Agreement as being expressly authorised by the Contractor (save where the Contractor has notified the LFC Representative that such authority has been revoked) and the LFC shall not be required to determine whether any express authority has in fact been given.
      8. Termination of Appointment:
         1. the Contractor may terminate the appointment of the Contractor Representative and appoint a substitute. Where the Contractor wishes to do so it shall by written notice to the LFC propose a substitute for approval by the LFC (such approval not to be unreasonably withheld or delayed);
         2. the Contractor shall replace any Contractor Representative whom the LFC, acting reasonably and giving reasons, deems to be unacceptable, within five (5) days of any such request from the LFC; and
         3. the name and address of the Contractor Representative shall, at all times, be made known to the LFC by the Contractor as shall a telephone number on which the Contractor Representative or their delegate can be contacted twenty-four (24) hours a day.
   3. **LFC’s Representative**
      1. The LFC shall appoint an individual to be the LFC Representative and their deputy during the Term and keep the Contractor informed of the identity from time to time of the LFC Representative and deputy.
   4. **Authority of the LFC’s Representative**
      1. The LFC’s Representative shall have full authority to act on behalf of the LFC for all purposes of this Agreement. The Contractor shall be entitled to treat any act of the LFC Representative in connection with this Agreement as being expressly authorised by the LFC (save where the LFC has notified the Contractor that such authority has been revoked) and the Contractor shall not be required to determine whether any express authority has in fact been given.
      2. No act or omission of the LFC, the LFC Representative or any officer, employee or other person engaged by the LFC shall, except as otherwise expressly provided in this Agreement:
         1. in any way relieve or absolve the Contractor from, modify, or act as a waiver or estoppel of, any liability, responsibility, obligation or duty under this Agreement; or
         2. in the absence of an express order or authorisation under the Change Control Mechanism, constitute or authorise a Change.
      3. The LFC shall not be responsible for, and the Contractor shall not be entitled to rely on and shall not do so or claim relief, additional time, losses, expenses, damages, costs or other liabilities should the Contractor act on any notice, communication or other purported instruction given by a person alleging to act for and on behalf of the LFC unless such person was the LFC Representative.
      4. The LFC may by notice to the Contractor change the LFC’s Representative. Such change shall have effect on the date specified in the written notice (which date shall, other than in the case of emergency, be such date as will not cause material inconvenience to the Contractor in the execution of its obligations under this Agreement).
   5. **Safeguarding**

Where the Contractor is providing a Regulated Activity the Contractor shall be a Regulated Activity Provider (as defined by the SVGA 2006) with ultimate responsibility for the management and control of the Regulated Activity (as defined by the SVGA 2006) provided under this Agreement and for the purposes of the SVGA 2006, the Contractor shall:

* + - 1. comply with all of its obligations under the SVGA 2006 including without limitation information sharing, Disclosure and Barring Service (DBS, as defined by the SVGA 2006) referral obligations and checking that a person is subject to monitoring;
      2. maintain and implement a safeguarding policy which is in general compliance with the LFC’s safeguarding policies;
      3. immediately inform the LFC Representative if any action undertaken in relation to any breach of the Contractor’s safeguarding policies;
      4. be appropriately registered in relation to all persons who are or will be employed or engaged by the Contractor in the provision of the Regulated Activity;
      5. ensure that all individuals engaged in Regulated Activity are subject to a valid enhanced disclosure check undertaken through the DBS including a check against the adults’ barred list or the children’s barred list, as appropriate;
      6. monitor the level and validity of the checks under Clause v for each member of the Contractor Personnel;
      7. not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that they would not be suitable to carry out the Regulated Activity or who may otherwise present a risk to a recipient of the Services;
      8. in accordance with the SVGA 2006, refer information about any person providing the Regulated Activity to the DBS where it removes permission for such person to provide the Services (or would have, if such person had not otherwise ceased to provide the Services) because, in its opinion, such person has harmed or poses a risk of harm to a recipient of the Services;
      9. immediately provide the LFC with all information that the LFC may reasonably require to enable the LFC to verify that the Contractor has satisfied its obligations under this Clause 18.5 and the SVGA 2006 and immediately inform the LFC if there is any reason to believe that any obligations under the SVGA 2006 are not being complied with in relation to the Services; and
      10. ensure that all Contractor Personnel working with or alongside children have regard to the need to safeguard and promote the welfare of children.
    1. The Contractor acknowledges that the LFC may acting in accordance with the SVGA 2006 disclose information in relation to any Contractor Personnel where required to do so by the Independent Safeguarding Authority without consultation with the Contractor.
  1. **Conduct of Contractor Personnel**

The LFC (acting reasonably) may:

* + 1. instruct the Contractor that disciplinary action is taken against any Contractor Personnel or any Sub-Contractor involved in the provision of the Services (in accordance with the terms and conditions of employment of the employee concerned) where such Contractor Personnel commits a misconduct or is incompetent or negligent in their duties (in which case the LFC shall co-operate with any disciplinary proceedings and shall be advised in writing of the outcome); or
    2. where the LFC has reasonable grounds for considering that the presence or conduct of a member of the Contractor Personnel at any location relevant to the performance of the Services is undesirable, require the exclusion of the relevant Contractor Personnel from the relevant location(s).
    3. The Contractor shall have procedures in place to ensure that:
       1. all policies, codes and procedures (for example, but not limited to, health and safety, fire risks and precautions and emergency procedures) adopted by the Contractor and required by the Agreement are complied with by all Contractor Personnel;
       2. there are sufficient supervisory Contractor Personnel to ensure that all of the Contractor Personnel engaged in the provision of the Services are at all times adequately supervised and properly perform their duties; and
       3. appropriate disciplinary action is taken against any Contractor Personnel, including those of Sub-Contractors, who transgress the Contractor’s staff code of conduct and/or the provisions of this Agreement.
    4. The Contractor shall not allow the Contractor Personnel to receive, request, solicit or act in such a manner as to induce payment, or gratuities of any kind, for any work to be carried out in accordance with the Agreement.
    5. The Contractor shall submit a copy of an Agreement-specific ‘Staff Code of Practice’ to the LFC’s Representative within one (1) month of the Commencement Date for approval.
  1. **Resources and Training**

The Contractor shall throughout the Term procure that:

* + 1. there shall be a sufficient number of Contractor Personnel (including all relevant grades of supervisory staff) available to provide the Services with the requisite level of skill and experience. This obligation shall include ensuring that:
       1. there are sufficient supervisors to monitor the performance of the Contractor Personnel;
       2. all Contractor Personnel whether employed or temporary or agency staff receive such induction, training and supervision as is necessary to ensure the proper performance of the Services under this Agreement;
       3. all the Contractor Personnel are and at all times remain properly and sufficiently qualified, trained, skilled, competent, instructed and supervised with regard to:
          1. the duty or duties which that person has to perform;
          2. any relevant aspect of the Contract Documents and Service Standard that may relate thereto; and
          3. the rules, procedures, policies and statutory and regulatory requirements concerning the provision of the Services and health and safety at work and all other rules and procedures relevant to the duties which that person has to perform;
       4. every member of Contractor Personnel:
          1. holds a valid work permit to work;
          2. carries out their duties and conducts themselves in an orderly and courteous manner;
          3. maintains the highest professional standards, courtesy and consideration; and
          4. is able to deal and communicate effectively and coherently with members of the public in a helpful, polite and restrained manner;
       5. all drivers hold valid driving licences and that the driving licences are checked regularly to ensure they are still valid;
       6. if any member of the Contractor Personnel appears to be under the influence of alcohol or drugs or whose attention may be impaired through the effect of drugs (whether or not prescribed by a medical practitioner) are relieved from all duties immediately; and
       7. the Contractor Personnel carry out their duties and otherwise conduct themselves in such a way as to cause no unreasonable or unnecessary disruption to the work of any of the LFC’s staff or staff of any Fellow Contractor.
    2. The Contractor shall maintain training records for the Contractor Personnel, which are to be open for inspection by the LFC on request.
  1. **Labour**
     1. During the term of the Agreement:
        1. the Contractor shall comply fully with the terms of any collective agreement entered into between one or more trade unions and any association of employers of which the Contractor is a member;
        2. the Contractor will not itself, or through a servant or agent, perform any act intended to discourage employees or prospective employees from becoming or continuing as members of a trade union; and
        3. the Contractor will not itself, or through a servant or agent, penalise employees or prospective employees in any way by reason of their membership of a trade union.
     2. Compliance with Clause 18.8.1 above is a condition of the Agreement. In the event that the Contractor breaches any provision of the Clause in a material respect the LFC shall have the right to terminate the Agreement.

1. EQUALITY OF OPPORTUNITY and human rights
   1. The Contractor shall comply with all applicable Equalities Legislation and the LFC’s Equalities Protocol contained in Schedule 13 (Equalities Protocol) in its performance of the Agreement and shall take all reasonable steps to ensure that all servants, employees, agents and Sub-Contractors of the Contractor engaged in the provision of the Service does not unlawfully discriminate, harass or victimise within the meaning and scope of the Equalities Legislation. This Clause 19.1 shall be without prejudice to the Contractor’s general obligation to comply with Legislation.
   2. The Contractor shall (and shall procure that the Contractor Personnel shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Agreement. The Contractor shall also undertake, or refrain from undertaking, such acts as the LFC requests so as to enable the LFC to comply with its obligations under the Human Rights Act 1998.

PART 4: MONITORING

1. PERFORMANCE monitoring
   1. The Contractor shall provide records of, and reports summarising, the performance of the Services achieved by the Contractor against the KPIs in accordance with the requirements of Schedule 10 (Performance Monitoring System). Such recording and monitoring shall be subject to rights of audit in accordance with the provisions of Clause 22 (Records Audit and Inspection) and other relevant terms of this Agreement.
   2. The Contractor shall be committed to the process of continuous improvement of the Service and all KPIs. Accordingly, the Contractor shall introduce processes including (but not limited to):
      1. initiatives to achieve value for money; and
      2. the introduction of improvements in the delivery of the Services (including through adoption of changes to or the introduction of new methodologies, tools and processes),

through which the Contractor will keep all Services under review and where it is reasonable to conclude either that the KPI should be increased to a more demanding level than the KPI in force, or that a Service not currently subject to a KPI should become so subject, the KPI shall be increased, or a new KPI introduced, as appropriate. Any increased or new KPIs shall be proposed in writing to the LFC as per the requirements in Schedule 7 (Change Control Procedure).

1. CONTRACT MANAGEMENT AND MANAGEMENT INFORMATION SYSTEM
   1. The Parties shall comply with the provisions of Schedule 15 (Contract Management and Management Information System) in relation to the processes for management of this Agreement.
   2. The Contractor shall provide an appropriate Management Information System (**“MIS”**) in accordance with Schedule 15 (Contract Management and Management Information System).
   3. The Contractor shall promptly warn the LFC whenever the Contractor has reasonable grounds to believe that any failure on the part of the LFC or any third party to carry out its obligations and responsibilities under or associated with this Agreement, or the manner in which they are carried out, will have, or threatens to have, a detrimental effect on the quality of the Services or the efficiency or cost of their supply or the performance of any other obligations of the Contractor under this Agreement.
2. RECORDS AUDIT AND INSPECTION
   1. The Contractor shall, and shall procure that its Sub-Contractors shall, maintain a current, accurate, complete and correct set of records pertaining to all activities relating to the performance of the Services and all transactions entered into by the Contractor for the purposes of this Agreement, including all expenditure reimbursed by the LFC and all payments made by the LFC. These records shall be open for inspection by the LFC at all reasonable times. The Contractor shall disclose and release any records, orders and instructions as required by the LFC. The Contractor shall, and shall procure that its Sub-Contractors shall, retain all such records for a period of no less than six (6) years (or such other period as may be required by law) following termination or expiry of this Agreement.
   2. The LFC has the right to audit any and all such records at any time during the performance of this Agreement and during the six (6) year period (or such other period as may be required by law) following termination or expiry of this Agreement.
   3. The Contractor shall allow the LFC’s authorised representatives (including auditors appointed by the Audit Commission), at any reasonable time, to undertake any inspection, audit or check of any aspect of the Contractor’s performance of the Services, including, but not limited to, inspection of the Contractor’s technical and organisational security measures for the protection of Personal Data, as required by Clause 14, at no additional cost to the LFC. The LFC shall give the Contractor reasonable notice, in writing or verbally, of its intention to undertake an inspection, audit or check under this Clause.
   4. The Contractor shall provide the LFC with all reasonable co-operation in relation to any inspection, audit or check including:
      1. granting access to any premises, equipment, plant, machinery or systems used in the Contractor’s performance of this Agreement, and where such premises, equipment, plant, machinery or systems are not the Contractor’s own, using reasonable endeavours to procure such access;
      2. ensuring that appropriate security systems are in place to prevent unauthorised access to, extraction of and/or alteration to data during the audit;
      3. making any information relating to the performance of the Agreement available for inspection and providing copies of such information if requested; and
      4. providing any information required by the Audit Commission for the purpose of carrying out its financial audit of the LFC and for carrying out examinations into the economy, efficiency and effectiveness with which the LFC has used its resources, along with any explanations reasonably required for these purposes.
   5. The Contractor shall, for a period of at least seven (7) years from and including whichever shall be the later date of:
      1. the date of expiry or termination of this Agreement;
      2. the date on which the Contractor and any relevant Sub-Contractors complete all required exit assistance in accordance with the Exit Management Plan and to the reasonable satisfaction of the LFC; or
      3. such longer period as may be required to comply with its obligations under this Agreement,

maintain and shall procure that for such period all Sub-Contractors maintain on an open book basis, the following items:

* + - 1. any records or information required expressly or impliedly in connection with the rights granted to the LFC and/or any of its agents under the terms of this Clause 22; and
      2. such other records, information and documentation as required elsewhere under this Agreement.

PART 5: PAYMENT

1. CHARGES
   1. In consideration of and subject to the Contractor supplying the Service to the satisfaction of the LFC, the LFC will pay to the Contractor the Charges in accordance with the procedures set out in Schedule 3.
   2. Unless otherwise expressly provided, the Charges are inclusive of (and no additional payment will be due to the Contractor in respect of) all necessary services and support including all office costs (including but not limited to the costs of and time spent on, telephone calls, facsimile transmissions, word processing, typing, photocopying, postage and couriers), travelling costs (including travelling time), production of reports and copy documents, attendance at meetings, preparing and negotiating costs, the cost of managing the Agreement (including dealing with complaints, merited or otherwise, and failure to meet standards and rectifying such failures) and anything ancillary or incidental to any of the foregoing to enable the Contractor to provide the Services whether or not available in-house to the Contractor.
   3. The Contractor is not entitled to reimbursement for expenses unless such expenses have been incurred with the prior written consent of the LFC, in which case the Contractor shall supply appropriate evidence of expenditure in a form acceptable to the LFC.
   4. All Charges payable under the Agreement exclude VAT unless otherwise stated. VAT, where applicable, shall be shown separately.
   5. **Submission of Invoices**

Within ten (10) Working Days following the end of each Month from the Commencement Date the Contractor shall submit to the LFC Representative an invoice, which may be submitted electronically, together with a supporting statement in such form as approved from time to time by the LFC Representative. The consolidated invoice shall be accompanied by a breakdown of the Services provided and the LFC’s order number. All invoices shall be itemised and must clearly show any settlement discounts.

* 1. **Verifying the Invoices**

Within ten (10) days of receipt of the invoice and supporting statement referred to in Clause 24.5 the LFC Representative shall assess the amount properly due to the Contractor in accordance with this Agreement and notify the Contractor whether the invoice and any supporting documents are approved or rejected having regard to any adjustments including:

* + 1. the valuation of any Change made pursuant to Schedule 7 (Change Control Procedure);
    2. where the Contractor has been overpaid by the LFCby virtue of an error or fraudulent conduct by an LFC employee, agent or LFC Related Party;
    3. any deductions for defaults issued under Clause 26 (Defaults and Remedies Available to the LFC); and
    4. any other additions or deductions under this Agreement.
  1. **Payment**
     1. Within thirty (30) days of the LFC’s receipt of a valid invoice in accordance with Clauses 23.5 and 23.6, the LFC shall pay the amount correctly invoiced.
     2. Payments due to the Contractor after the Expiry Date shall be paid by the LFC but such payments shall be dependent on the satisfactory completion of the arrangements for handover required under Clause 32 (Exit Arrangements).
     3. In addition to the Charges, the LFC shall, subject to receipt of a properly drawn tax invoice, pay to the Contractor such value added tax (if any) as may be properly chargeable by the Contractor in connection with the provision of the Services under Legislation from time to time in force.
  2. **Disputed Amounts**
     1. In the event that the LFC is not satisfied that a sum or sums in the invoice submitted in accordance with Clause 23.5 is accurate or complete, the LFC shall:
        1. pay any undisputed amount within thirty (30) days; and
        2. withhold any disputed amount and submit a notice to the Contractor within fifteen (15) days stating the sum which is in dispute and the reason for the dispute (a **“Disputed Amount Notice”**).
     2. Within fifteen (15) days of the Contractor having received the Disputed Amount Notice, the Contractor shall respond setting out how the disputed amount was calculated.
     3. The Parties shall meet as soon as practicable following receipt of the Contractor’s response to the Disputed Amount Notice and shall attempt to resolve the dispute amicably between them. If the Parties are unable to reach agreement the LFC shall be entitled to continue withholding the disputed amount and the matter shall be referred to the Dispute Resolution Procedure set out in Clause 46.
     4. In the event that the outcome of the Dispute Resolution Procedure is that:
        1. the Contractor was properly due any part of the withheld sum, the LFC shall pay such part within seven (7) Working Days together with interest thereon at the Prescribed Rate from the date on which such payment was due; or
        2. the LFC is not due to pay the Contractor (and the Contractor is not due to receive) any part of the withheld sum, such part shall be deemed deducted from the Charges and the Contractor shall, for the record, re-submit the invoice in the correct amount or issue a credit note.
  3. **Sub-Contractors**
     1. Where the Contractor enters into a Sub-Contract, the Contractor shall include in that Sub-Contract:
        1. provisions having the same effect as those set out in Clause 23.1 to 23.8; and
        2. a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as Clauses 23.1 to 23.8.

For the purposes of this Clause 23.9 a “Sub-Contract” means any contract between two or more suppliers at any stage of remoteness from the LFC in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of the Services under this Agreement.

* 1. Any loss or additional expenses incurred by the Contractor in the correction or re-submission of an invoice shall be at the Contractor’s expense.
  2. No payment made by the LFC shall indicate or be taken to indicate the LFC’s acceptance or approval of any part of the Services or any act or omission of the Contractor, or absolve the Contractor from any obligation or liability imposed on the Contractor under this Agreement.
  3. No payments made by the LFC under this Agreement, including the final payment, shall prevent the LFC from recovering any amount overpaid or wrongfully paid including, but not limited to, payments made to the Contractor by mistake of law or fact. The LFC shall be entitled to withhold such amount from any sums due or which may become due to the Contractor and LFC may recover such amount as a debt.

1. SET OFF
   1. All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the LFC arising out of or attributable to this Agreement may be deducted by the LFC from monies due or which may become due to the Contractor under this Agreement the LFC may recover such amount as a debt.
2. INDEXATION
   1. The Contract Price shall be revised on each anniversary of the Commencement Date (the **“Review Date”**) in accordance with the following provisions:
      1. on the first anniversary of the Commencement Date, the Contract Price shall be adjusted by the percentage increase or decrease in the Index calculated from the Commencement Date to the next Review Date;
      2. from the second anniversary onwards, the Contract Price shall be adjusted by the percentage increase or decrease in the Index calculated from the Review Date in the previous Year to the Review Date in the Year just ended.
   2. If the bases of computation of the Index changes, any official reconciliation between the two bases of computation published by the body charged with the compilation and maintenance of the Index (currently the Office of National Statistics) shall be binding upon the LFC and the Contractor and shall be applied in adjusting the application of the Index provided that in the absence of such official reconciliation such adjustments shall be made to the figures of the Index as to make it correspond as nearly as possible to the previous method of computation and such adjusted figures shall be used to the exclusion of the actual published figures (until officially reconciled figures are published) and in the event of a dispute regarding such adjustments such dispute may be referred by either Party to an expert agreed upon by the Parties or in default of this Agreement appointed on the application of either Party by the president for the time being of the Law Society of England and Wales.

PART 6: DEFAULTS, INDEMNITIES AND INSURANCE

1. DEFAULTS AND REMEDIES AVAILABLE TO THE LFC
   1. The Contractor shall comply with the obligations of this Agreement and the provisions of Schedule 10 (Performance Monitoring System) throughout the Term in connection with the operation and delivery of the Services.
   2. Without prejudice to any of its other obligations under this Agreement, the Contractor shall provide each element of the Services for which a KPI is applied in Schedule 10 to the required level or better.
   3. The Contractor’s failure to meet the Performance Standards shall entitle the LFC to make deductions from the Charges in accordance with the provisions of Schedule 10.
   4. Within fourteen (14) days of the end of each Monitoring Period the LFC will supply the Contractor with a statement showing the value of the Accrued Performance Failure Points for that Monitoring Period to be deducted from the Contractor’s invoice in accordance with Schedule 10 of the Agreement.
2. DEFAULTS AND REMEDIES AVAILABLE TO THE CONTRACTOR
   1. In the event that any undisputed amount correctly rendered by invoice by the Contractor remains unpaid by the LFC after thirty (30) days the Contractor shall notify the LFC in writing giving the LFC thirty (30) further days to pay such an invoice. If the amount remains unpaid, the Contractor shall be entitled to charge interest from the date on which the further 30-day period expired to the Working Day before payment is made at the Prescribed Rate. It is agreed between the Parties that the interest rate provided for under this Clause 27 provides the Contractor with a substantial remedy pursuant to sections 8 and 9 of the Late Payment of Commercial Debts (Interest) Act 1998.
3. SUSPENSION OF THE SERVICES AND STEP-IN RIGHTS
   1. The LFC may take action to step in or suspend the Services in the following circumstances:
      1. subject to clauses 28.2 to 28.4 below, the Contractor has incurred in excess of 25 Performance Failure Pointspursuant to Schedule 10 in any one-month period; or
      2. where the Contractor is not in breach of its obligations under this Agreement but the LFC considers that the circumstances constitute an emergency not envisaged by the LFC under or in connection with this Agreement.
   2. Before the LFC exercises its rights of step-in under Clause 28.1.1 above it shall permit the Contractor the opportunity to demonstrate to the LFC’s reasonable satisfaction within 10 (ten) Working Days that the Contractor is still able to provide the Services in accordance with the terms of this Agreement and/or remedy the circumstances giving rise to the right to step-in without the requirement for the LFC to take action.
   3. If the LFC is not satisfied with the Contractor’s demonstration pursuant to Clause 28.2 above, the LFC may take such steps that it considers appropriate to ensure the performance of all or part of the Services and the Contractor shall cooperate fully and in good faith with the LFC.
   4. If the Contractor fails to take the steps notified to it by the LFC pursuant to Clause 28.3 above, then the LFC may take action under this Clause either through itself or with the assistance of third-party contractors.
   5. If the LFC takes action pursuant to Clause 28.1 above, the LFC shall serve notice (a **“Step-in Notice”**) on the Contractor. The Step-in Notice shall set out the following:
      1. the action the LFC wishes to take and in particular the Services it wishes to control;
      2. the objective of taking the action and whether the LFC believes that the primary cause of the action is due to the Contractor’s default;
      3. the date it wishes to commence the action;
      4. the time period which it believes will be necessary for the action;
      5. whether the LFC will require access to the Contractor’s premises and/or sites; and
      6. to the extent practicable, the effect on the Contractor and its obligations to provide the Services during the period the action is being taken.
   6. Following service of a Step-in Notice, the LFC shall:
      1. take the action set out in the Step-in Notice and any consequential additional action as it reasonably believes is necessary (the **“Required Action”**);
      2. keep records of the Required Action taken and provide information about the Required Action to the Contractor;
      3. cooperate wherever reasonable with the Contractor in order to enable the Contractor to continue to provide any Services in relation to which the LFC is not assuming control; and
      4. act reasonably in mitigating the cost that the Contractor will incur as a result of the exercise of the LFC’s rights under this Clause.
   7. For so long as and to the extent that the Required Action is continuing:
      1. the Contractor shall not be obliged to provide the Services to the extent that they are the subject of the Required Action; and
      2. subject to Clause 28.8, the LFC shall pay to the Contractor the Charges after the deduction of any applicable Service Credits and, where the Required Action has been taken under Clause 28.1.1 or otherwise due to circumstances arising out of the Contractor’s default, the LFC’s costs of taking the Required Action.
   8. If the Required Action results in a degradation of any Services not subject to the Required Action, beyond that which would have been the case had the LFC not taken the Required Action then the Contractor shall be entitled to an agreed adjustment of the Charges to take into account the Service Credits that would have reasonably applied had the Required Action not affected the Contractors ability to provide the Services to a higher level, provided that the Contractor can demonstrate to the reasonable satisfaction of the LFC that the Required Action has led to the degradation.
   9. Before seeking to exercise its step-out rights under this Clause 28 the LFC shall deliver a written notice to the Contractor (a **“Step-out Notice”**) specifying:
      1. the Required Action it has actually taken; and
      2. the date on which the LFC plans to end the Required Action (the **“Step-out Date”**) subject to the LFC being satisfied with the Contractor’s ability to resume the provision of the Services and the Contractor’s plan developed in accordance with Clause 28.10.
   10. The Contractor shall, following receipt of a Step-out Notice and not less than 10 (ten) Working Days prior to the Step-out Date, develop for the LFC’s approval a draft plan (the **“Step-out Plan”**) relating to the resumption by the Contractor of the Services, including any action the Contractor proposes to take to ensure that the affected Services satisfy the requirements of the Agreement.
   11. If the LFC does not approve the draft Step-out Plan, the LFC shall inform the Contractor of its reasons for not approving it. The Contractor shall then revise the draft Step-out Plan taking those reasons into account and shall re-submit the revised plan to the LFC for the LFC’s approval. The LFC shall not withhold or delay its approval unnecessarily.
   12. The Contractor shall bear its own costs in connection with any Step-in by the LFC.
4. TERMINATION
   1. **Termination for convenience by the LFC**
      1. The LFC shall be entitled to terminate this Agreement in whole or in part at any point after one (1) calendar year from the Service Commencement Date by giving to the Contractor not less than six (6) months’ notice in writing.
      2. In the event that the LFC terminates this Agreement pursuant to Clause 29.1.1 (Termination for convenience by the LFC), Clause 31.2 shall apply.
   2. **Termination on Contractor Default**
      1. If any one or more of the matters in Clause 29.2.2 (**“Contractor Default”**) occurs the LFC shall be entitled to forthwith terminate the Agreement in whole or in part by issuing a written notice to the Contractor to that effect in accordance with Clause 29.1. For the avoidance of doubt the occurrence of any one of the matters listed in Clause 29.2.2 shall be deemed repudiatory breach of contract by the Contractor. The right of the LFC to terminate shall be a contractual right pursuant to this Clause 29.2.1 and/or a common law right accepting the Contractor’s repudiatory breach as the circumstances dictate.
      2. The matters referred to in Clause 29.2.1 above are:
         1. the Contractor or any of its employees (whether with or without the Contractor’s knowledge) shall have committed a Performance Failure in connection with the provision of the Services or in relation to this Agreement and the matter has not been satisfactorily resolved by the Contractor by taking appropriate disciplinary action; or
         2. the Contractor commits an act of fraud or bankruptcy; or
         3. the Contractor misuses or infringes any of the LFC’s property rights or the LFC’s Data or uses the same other than in the provision of the Services; or
         4. there is an Insolvency Event; or
         5. the Contractor ceases, or threatens to cease, to carry on business; or
         6. the combined value of the Performance Failure Points allocated to Performance Failures is greater than 30 points in any consecutive three (3) month period or 20 points in any consecutive six (6) month period; or
         7. the service of three (3) Default Notices within any consecutive three (3) month period; or
         8. if this Agreement should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Procurement Act 2023 as declared by a court of competent jurisdiction;
         9. the Contractor has, at the time of contract award, been in one of the situations referred to in Schedule 6 of the Procurement Act 2023, and should therefore have been excluded from the procurement procedure;
         10. the Contractor is in material breach of the provisions of terms (1) – (7) of Schedule 13 (Equalities Protocol);
         11. the Contractor is in material breach of any of the provisions of Clause 41 (Freedom of Information) or Clause 44 (Protection of Personal Data);
         12. any statement, representation or warranty made by the Contractor to which Clause 30.3 (Force Majeure) relates was misleading or untrue when it was first made or when deemed restated in accordance with the said Clause 30.3;
         13. the Contractor or any of its employees, agents, or Subcontractors shall have committed an MSA Offence;
         14. the Contractor commits a breach of any of its obligations under this Agreement which materially and adversely affects the performance of the Services; and/or
         15. the Contractor brings the LFC into disrepute.
   3. In the event that any of the grounds listed in section 78 of the Procurement Act 2023 apply, the LFC may terminate this Agreement by giving seven (7) days’ prior written notice to the Contractor of such termination.
   4. **Procurement Challenge**
      1. In the event that this Agreement or any modification of the same is subject to a credible and substantive legal or procurement challenge of any nature and/or is deemed by any regulatory authority to be set aside or to be in breach of any Law or regulation (the **“Procurement Challenge”**), then the Parties shall co-operate in good faith to determine how they should manage the best way to mitigate the impact of the Procurement Challenge, which may include varying some or all of the Agreement and/or terminating the Agreement in whole or in part.
      2. In the event that:
         1. there is a credible and substantive legal or procurement challenge of any nature and the LFC considers that it is likely that a court would declare that the Agreement is set aside, the Agreement shall terminate forthwith; or
         2. a court of competent jurisdiction has decided to set aside this Agreement, bringing this Agreement to an end; or
         3. this Agreement is terminated in accordance with clause 29.1.1,

the LFC shall, without prejudice to any other right or remedy that it may have, pay to the Contractor all sums lawfully due to the Contractor in consideration of its proper provision of the Services up until the date and time of it being set aside or date of termination. The LFC shall pay such sums within thirty (30) Working Days of its receipt of a valid and properly payable invoice for the same from the Contractor.

* + 1. Save as set out in Clause 29.4.2, the LFC shall have no further liability to the Contractor, including without limitation, in relation to any loss of future profit by the Contractor accruing after the set aside, claims for restitution and/or compensation howsoever arising.
    2. Upon a decision being made to set aside this Agreement, the Agreement shall terminate and the provisions of Clause 31 (Consequences of Termination) shall apply.
    3. The Parties have agreed the inclusion of Clause 29.4 in order to regulate their mutual rights and obligations in the event of a procurement challenge and/or this Agreement being set aside. The Parties also agree that the operation of this clause 29.4 shall provide the Contractor with sufficient restitution and compensation for the purposes of section 104(8) of the Procurement Act 2023.
  1. **Part Termination**
     1. If the Agreement is determined in part, the Charges shall be adjusted to reflect fairly the Services which remain and if the parties are unable to agree such adjustment, the matter shall be referred to the Dispute Resolution Procedure. For the avoidance of doubt the Contractor shall not be entitled to recover through the adjusted Charges any profit that, but for the Termination, would have accrued to the Contractor in respect of the terminated Service.
  2. **Suspension**
     1. The LFC, in its discretion but acting reasonably and taking into account the representations of the Contractor, shall be entitled to suspend part of the Services which it would otherwise be entitled to terminate pursuant to this Clause 29 until such time as the Contractor is able to demonstrate that it is able to perform the Services to the Service Standard without default. During the period of such suspension (which shall be notified in writing by the LFC) the LFC shall be entitled to abate the Charges by such amount as is necessary for the LFC to perform the Services itself or to engage a third party to do so.
  3. The rights of the LFC under this Clause 29 are in addition and without prejudice to any right that either Party may have against the other for prior breach and to any right the LFC may have against the Contractor for the breach, default, negligence or event leading to the Termination Date.

1. FORCE MAJEURE
   1. In this Agreement **“Force Majeure”** means any event which is beyond the reasonable control of, and could not have been avoided by steps which might reasonably have been expected to be taken by, a Party (**“Affected Party”**) and which causes or results in the Affected Party being unable to perform (in whole or part) or being delayed in performing its obligations to the other Party under this Agreement.
   2. The Affected Party shall be relieved from liability for any delay or failure in performance of any of its obligations under this Agreement which is caused by or results from Force Majeure for so long as and to the extent the occurrence of Force Majeure and /or the effects of such occurrence could not be overcome by measures which the Affected Party might reasonably be expected to take with a view to resuming performance of its obligations.
   3. If an occurrence of Force Majeure has continued for more than 90 calendar days and is having a material adverse effect on the Affected Party’s performance of its obligations under the Agreement then the other Party may terminate the Agreement in whole or in part immediately upon giving written notice to the Affected Party, in which event neither Party shall be liable to the other by reason of such termination.
2. CONSEQUENCES OF TERMINATION
   1. Termination shall be without prejudice to the rights and remedies of the Contractor and the Agreementaccrued before Termination and nothing in the Agreement shall prejudice the right of either Party to recover any amount outstanding as at the date of Termination.
   2. On the Expiry Date or earlier Termination Date the Contractor shall:
      1. forthwith cease to provide the Service;
      2. cease to make use of the Intellectual Property in any way whatsoever;
      3. be liable immediately to compensate the LFC for any loss or damage it has sustained in consequence of any antecedent breaches of this Agreement by the Contractor;
      4. where the Agreement is terminated, fully and promptly indemnify and compensate the LFC against all loss and damage suffered by the LFC by reason of such termination and without prejudice to the generality of this Clause 31 shall fully and promptly indemnify and compensate the LFC in respect of the cost of causing to be provided such Services as would have been performed by the Contractor during the remainder of the Term to the extent that such cost exceeds sums as would have been lawfully payable to the Contractor for providing such Services (such costs to include but not be limited to all costs of closing out this Agreement and entering into new contracts with replacement contractors). The LFC shall be at liberty to have such Services provided by any persons (whether or not servants of the LFC) as the LFC in its entire discretion thinks fit and shall act reasonably but shall be under no obligation to employ the least expensive method of having such Services provided;
      5. not be entitled to any further payment under the Agreement and the LFC shall be entitled to retain any payment which may have fallen due to the Contractor before termination until the Contractor has paid in full to the LFC all sums due under this or any other Agreement or to deduct therefrom any sum due from the Contractor to the LFC under this or any other Agreement;
      6. without prejudice to the LFC’s other rights under this Agreement within ten (10) Working Days of Termination at the Contractor’s own cost return to the LFCor otherwise dispose of in accordance with the LFC’s instructions all and any:
         1. documents and other information and materials relating to the Services;
         2. LFC Data (which data shall if necessary, upon the LFC’s request be transferred in compatible form on to such computer system as the LFCmay request) (including back-ups) and any other media; and
         3. other LFCproperty and belonging to the LFCwhich may be in the possession or under the control of the Contractor and/or its Sub-Contractors;
      7. make good to the LFCany accounting discrepancy and/or loss or damage attributable to a Performance Failure by the Contractor, its Staff, Sub-Contractors and agents; and
      8. vacate and leave in good condition the LFC Premises.
   3. In the event that the Contractor fails to comply with its obligations in Clause 31.2 the LFCshall be entitled to:
      1. recover possession of the relevant items and for this purpose the Contractor hereby grants to the LFCand its appointed agents a licence to enter onto any land or premises belonging to or under the control of the Contractor;
      2. recover its reasonable costs incurred in connection with exercising its rights pursuant to 31.3.1, such sum to be recoverable by the LFCfrom the Contractor as a debt; and
      3. within six (6) months the Parties shall carry out an accountancy reconciliation setting out any sums owed by one Party to the other and the Parties shall settle such amounts within twenty-five (25) Working Days of the reconciliation being settled and agreed.
   4. This Clause 31 together with all other provisions of this Agreement which are expressed to survive Termination shall continue in force and effect in accordance with their terms.
   5. Subject as otherwise provided in the Agreement neither Party shall have any further obligation to the other under the Agreement.
   6. The termination of this Agreement howsoever arising is without prejudice to the rights, duties and liabilities of either Party accrued prior to termination. The Clauses of this Agreement which expressly or impliedly have effect after termination will continue to be enforceable notwithstanding termination.
   7. Notwithstanding any provision of this Agreement, on service of a notice of termination, this Agreement shall only terminate in accordance with the provisions of this Agreement.
   8. **Continued effect – no waiver**

Notwithstanding any breach of this Agreement by either Party, and without prejudice to any other rights which the other Party may have in relation to it, the other Party may elect to continue to treat this Agreement as being in full force and effect and to enforce its rights under this Agreement. The failure of either Party to exercise any right under this Agreement, including any right to terminate this Agreement and any right to claim damages, shall not be deemed a waiver of such right for any continuing or subsequent breach.

* 1. **Continued Performance**

Subject to any exercise by the LFC of its rights to perform, or to procure a third party to perform, the obligations of the Contractor, the Parties shall continue to perform their obligations under this Agreement, notwithstanding the giving of any notice of default or notice of termination, until the termination of the Agreement becomes effective in accordance with the provisions of this Clause 31.

1. Exit arrangements
   1. Prior to and at the end of the Term the Contractor shall co-operate with the LFCand any replacement contractor nominated by the LFC(the **“New Contractor”**) in ensuring the smooth hand-over and continued running of the Services during such hand-over and in particular, but without limitation, the Contractor shall, to the extent required by the LFC:
      1. allow the LFCand any New Contractor reasonable right of access to the Contractor’s and Sub-Contractor’s premises, systems, procedures and Contractor Personnel, where appropriate; and
      2. deliver to the LFCupon request all information, materials and documents relating to the Services in its possession or under its control or in the possession or under the control of any permitted Sub-Contractors and in default of compliance with this provision the LFCmay recover possession thereof and the Contractor grants a licence to the LFCor its appointed agents to enter for the purpose of any such recovery any premises of the Contractor or its permitted Sub-Contractors where any such documents, information or materials may be held.
   2. Without prejudice to Clause 32.3 where the Agreement is terminated for a reason set out in Clause 29.2, the LFCshall immediately cease to be under any obligation to make further payment to the Contractor until the costs, loss and/or damage to the LFCresulting from or arising out of the Termination shall have been calculated, including the application of Clause 31.2.5.
   3. When the total costs, loss and/or damage resulting from or arising out of such Termination as is referred to in Clause 32.2 have been calculated and deducted so far as practicable from any sum or sums which would but for Clause 32.2 have been due to the Contractor, any balance shown as due to the LFCshall be recoverable as a debt, or alternatively, the LFC shall pay to the Contractor any balance shown as due to the Contractor.
   4. Upon the Expiry or Termination for whatever reason of this Agreement the LFC shall have the option to purchase at net book value any of the assets or equipment used by the Contractor solely in performance of its obligations under this Agreement. Where the LFC wishes to exercise this option, it shall notify the Contractor in writing accordingly not less than twenty-eight (28) days following the date on which this Agreement expires or is terminated.
2. LIABILITY
   1. The Contractor shall be responsible for and indemnify and keep indemnified the LFC, its employees, agents and sub-contractors on demand from and against all liability for:
      1. death or personal injury;
      2. loss of or damage to property (including property belonging to the LFC or for which it is responsible); and
      3. actions, losses or damage, claims, demands, costs, proceedings charges and expenses (including legal expenses on an indemnity basis),

which may arise out of, or in consequence of, the performance or non-performance of the Contractor’s obligations or of its employees, agents or sub-contractors under this Agreement except to the extent that such losses are caused by negligence of the LFC or its employees or agents and provided that the Contractor’s liability howsoever arising under or in connection with this Agreement shall not exceed a total of £499,500.00.

1. CONTROL OF CLAIMS COVERED BY AN INDEMNITY
   1. If the LFC becomes aware of a matter which may give rise to a claim under an indemnity given by the Contractor in this Agreement:
      1. the LFC shall notify the Contractor as soon as is reasonably practicable and in any event within fifteen (15) Working Days (from and including the date of receipt of notice) of the matter (stating in reasonable detail the nature of the matter and, if practicable, the amount claimed) and consult with the Contractor with respect to the matter. If the matter has become the subject of proceedings, where reasonably practicable the LFC shall notify the Contractor within sufficient time to enable the Contractor to prepare any statement of case;
      2. the LFC shall provide the Contractor and its advisers reasonable access to premises and personnel and to all relevant assets, documents and records that it possesses or controls for the purposes of investigating the matter and enabling the Contractor to take the steps referred to in Clause 34.1.1;
      3. the Contractor shall provide to the LFC reasonable access to information and Contractor Personnel that it possesses or controls for the purposes of understanding the nature and status of the action being taken under Clause 34.1.1 and shall consult with and take due account of the views of the LFC in relation to the proposed actions to be taken prior to settlement or compromise of the claim;
      4. the Contractor (at its cost) may take copies of the relevant documents or records, and photograph the premises or assets as reasonably required, save any documents or records in respect of which the LFC claims privilege;
      5. each Party shall, and shall procure that its relevant employees and professional advisers shall, use the documentation and information obtained pursuant to this Clause 34 solely for the purposes described and shall otherwise keep the documentation and information confidential in accordance with Clause 42 (Confidentiality) where such information constitutes Confidential Information. When a claim subject to an indemnity is concluded, documentation provided by either Party to the other for the purposes of the claim shall be returned; and
      6. the Parties may agree that the Contractor has the exclusive conduct of the proceedings and if so the Contractor indemnifies the LFC for all costs incurred as a result of a request or choice by the Contractor to conduct such proceedings.
2. INSURANCE
   1. The Contractor shall, unless otherwise agreed in writing by the LFC, hold and maintain during the Term the following Insurances:
      1. Public liability insurance in the sum of £5,000,000for any one occurrence or series of occurrences arising out of one event;
      2. Employer’s liability insurance in the sum in the sum of £10,000,000 for any one occurrence or series of occurences arising out of one event;
      3. Professional indemnity insurance in the sum of £2,000,000 for any one occurrence or series of occurences arising out of one event; and
      4. any other insurances as may be required by Legislation in relation to the provison of the Service.
   2. No Party to this Agreement shall take any action or fail to take any reasonable action, or (insofar as it is reasonably within its power) permit anything to occur in relation to it, which would entitle any insurer to reduce to pay any claim under any insurance policy in which that party is insured.
   3. The Insurances shall be maintained from time to time on terms no less favourable than those generally available to a prudent contractor operating to Good Industry Practice in respect of risk insured in the international insurance market from time to time.
   4. The Contractor shall promptly pay all premiums payable and other sums due in respect of the insurance policies. The Contractor shall comply with the terms and conditions of the Insurances and all reasonable requirements of the insurers, including (without limitation), in connection with the prosecution, defence and settlement of claims, the recovery of losses and the prevention of accidents. The Contractor shall bear the cost of all exclusions and limitations under the Insurances and shall pay for any excess.
   5. The policy or policies of insurance referred to above in Clause 35.1 shall be forthwith produced to the LFC upon request together with satisfactory evidence of payment of the premiums.
   6. The Contractor shall ensure the Insurances:
      1. contain an ‘indemnity to principal’ clause in favour of the LFC;
      2. contain a clause waiving the insurer’s subrogation rights against the LFC; and
      3. are written on a claim arising basis.
   7. In relation to all the Insurances except employer’s liability insurance,the Contractor agrees that the LFC has the right to control and to supervise all dealings with the press and any other media in relation to any incident, event, claim or action arising in connection with the Agreement.
   8. The Contractor shall notify the LFC within ten (10) Working Days after any notification of a claim relating to this Agreement which it considers (acting reasonably) will result in a claim in excess of £20,000 on any of the Insurances accompanies by full details of the incident giving rise to the claim. In the event of a claim being made under any of the Insurances, the Contractor shall apply the amounts recovered to make good the loss or damage in respect of which the claim is made.
   9. Neither failure to comply or full compliance with the insurance provisions of this Agreement shall relieve the Contractor of its liabilities and obligations under this Agreement.

**LFC Insurances**

* 1. The LFC shall take out and maintain insurance in respect of the LFC Premises and the LFC Assets.
  2. Costs associated with taking out and/or maintaining the LFC Insurances shall be the responsibility of the LFC except that if and to the extent that such costs arise as a result of any act or omissions of the Contractor, the Contractor shall be liable to the LFC in full for such costs and the LFC shall be entitled to fill reimbursement or such costs from the Contractor within ten (10) Working Days of notification.

PART 7: CHANGES

1. LFC AND CONTRACTOR CHANGES
   1. The provisions of the Change Control Procedure (Schedule 7) shall apply to this Agreement.

PART 8: GENERAL

1. CONFLICT OF INTEREST
   1. The Contractor acknowledges and agrees that it does not have an interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services and that (except as provided below) it shall not act for any person, organisation or company where there is or is reasonably likely to be a conflict of interest with the Services. This Clause shall not prevent the Contractor from providing services to an existing client of the Contractor to whom the Contractor is currently providing services provided that the Contractor shall:
      1. not act for any such client in respect of any transactions between any member of the LFC and such client or the LFC and such client;
      2. ensure that the personnel acting in any capacity for any such client are different from the Contractor Personnel involved in providing the Service or in any other work which the Contractor carries out in relation to any member of the LFC and/or the LFC;
      3. ensure that any personnel acting for any such client do not have access to information held by the Contractor relating to any member of the LFC and/or the LFC; and
      4. inform the LFC of all such existing clients and the steps that it is taking to ensure compliance with Clauses 37.1.1 to 37.1.3.
   2. The Contractor shall undertake ongoing and regular conflict of interest checks throughout the duration of the Agreement and shall notify the LFC in writing immediately on becoming aware of any actual or potential conflict of interest with the Services provided under this Agreement. Breach of Clause 35.1 or this Clause shall entitle the LFC to terminate this Agreement and any other Agreements between the Contractor and the LFC immediately.
2. **APPROVAL OF SUB-CONTRACTORS**
   1. The Contractor shall comply with the provisions of Schedule 17 (Sub-Contracts and Sub-Contractors) and the following provisions of this Clause 38 in relation to its Sub-Contractors and the terms upon which such Sub-Contractors are engaged.
   2. The LFC shall be entitled to impose such conditions as it may reasonably require in relation to the selection, appointment and terms upon which any such Sub-Contractors are employed by the Contractor.
   3. The Sub-Contractors named in Schedule 17 (Sub-Contracts and Sub-Contractors) shall be deemed to have been approved by the LFC as at the Commencement Date or, if later, the date upon which changes to that Schedule are made in accordance with the terms of this Agreement.
   4. The LFC reserves the right (on reasonable grounds and subject to reasonable notice) to withdraw, review or limit its approval in respect of any Sub-Contractor that it has previously approved from time to time.
   5. The Contractor shall procure that all Sub-Contractors procure, maintain and observe all approvals required to perform any obligations of the Contractor under this Agreement subcontracted to it by the Contractor.
   6. The Contractor shall ensure that the terms of this Agreement are properly and reasonably reflected in the terms of any agreement with each such Sub-Contractor and that each one of them shall at all times be bound by the obligations of the Contractor under this Agreement. The Contractor shall ensure that its Sub-Contractors perform the obligations of the Contractor delegated to them in all respects as if they were a Party to this Agreement owing to the LFC all those obligations and duties of the LFC as provided in this Agreement.
3. NON-SOLICITATION OF LFC STAFF
   1. The Contractor hereby agrees and undertakes that it will not during the Term directly or indirectly unless with the written agreement of the LFC (which shall not be unreasonably withheld):
      1. employ or engage any employee of the LFC, except in circumstances where the employee’s employment with the LFC has ceased before the employment or engagement with the Contractor commences;
      2. induce or procure any employee of the LFC to do anything which if done by such employee will be a breach of any obligations they may owe to the LFC; and/or
      3. solicit or entice away from the LFC any employee.
4. BEST VALUE
   1. The Contractor acknowledges that the LFC is subject to a duty of Best Value. The Contractor agrees to actively promote, support, and assist the LFC in discharging its duty of Best Value and either alone or jointly with the LFC seek to identify improvements in the Services which may result in savings for the LFC or the Contractor or both.
5. FREEDOM OF INFORMATION
   1. The Contractor acknowledges that the LFC is subject to the FOI Legislation and agrees to assist and co-operate with the LFC to enable the LFC to comply with its obligations under the FOI Legislation.
   2. Without prejudice to the generality of Clause 41.1, the Contractor shall and shall procure that its sub-contractors shall:
      1. transfer to the LFC Representative (or such other person as is notified by the LFC to the Contractor) all Information Requests that it receives as soon as practicable and in any event within two (2) Working Days of receiving an Information Request; and
      2. in relation to Information held by the Contractor on behalf of the LFC, provide the LFC with details about or a copy of all such Information that the LFC requests and such Information shall be provided within five (5) Working Days of a request from the LFC (or such other period as LFC may reasonably specify), and in such form as the LFC may reasonably specify.
   3. The LFC shall be responsible for determining whether Information is exempt information under the FOI Legislation and for determining what Information will be disclosed in response to an Information Request in accordance with the FOI Legislation. The Contractor shall not respond directly to an Information Request unless expressly authorised to do so by the LFC.
   4. The Contractor acknowledges that the LFC may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Contractor.
   5. Notwithstanding any other clause in this Agreement, the Contractor agrees that the LFC shall be entitled to disclose such Information about the Contractor, the Agreement and matters relating thereto as the LFC, determines necessary to comply with its obligations under the FOI Legislation.
   6. The Contractor shall and shall procure that its Sub-Contractors shall provide all assistance as may be requested by the LFC to enable it to respond to an Information Request within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations (as the case may be).
   7. The Contractor acknowledges that all Information shall constitute records to be retained in accordance with Clause 22. The Contractor shall permit the LFC to inspect such records as requested from time to time.
   8. The Contractor acknowledges that the Commercially Sensitive Information listed in Schedule 8 (Commercially Sensitive Information) is of indicative value only and that the LFC may be obliged to disclose it in accordance with this Clause 41.
   9. This Clause 41 shall survive the expiry or termination of this Agreement.
6. CONFIDENTIALITY
   1. The Contractor acknowledges that any Confidential Information provided by the LFC remains the property of the LFC.
   2. The Contractor hereby warrants that:
      1. confidential information is given only to such of the Contractor Personnel and professional advisors or consultants engaged to advise it in connection with the Agreement as is strictly necessary for the performance of the Agreement and only to the extent necessary for the performance of the Agreement;
      2. any person employed or engaged by the Contractor (in connection with this Agreement in the course of such employment or engagement) shall only use Confidential Information for the purposes of this Agreement;
      3. any person employed or engaged by the Contractor (in connection with this Agreement in the course of such employment or engagement) shall not disclose Confidential Information to any third party without the prior written consent of the LFC;
      4. it will take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (save as aforesaid) or not used other than for the purposes of this Agreement or by its employees, servants, agents or sub-contractors;
      5. it will ensure that its employees, servants, agents or sub-contractors who have been passed Confidential Information comply with the obligations of this Clause 42; and
      6. it shall, at the LFC’s request, deliver to the LFC or destroy all documents and other materials in its possession, custody or control (or the relevant parts of such materials) that bear or incorporate any part of the Confidential Information and if instructed by the LFC in writing, remove all electronically held Confidential Information, including (without limitation) the purging of all disk-based Confidential Information and the reformatting of all disks.
   3. The Contractor shall comply with the LFC’s security regulations including any made for the purpose of the Data Protection Legislation.
   4. The Contractor acknowledges that damages would not be an adequate remedy for any breach of this Clause 42 and that (without prejudice to all other remedies which the LFC may be entitled to as a matter of law) the LFC shall be entitled to the remedies of injunction, specific performance and other equitable relief to enforce the provisions of this Clause and no proof of special damages shall be necessary for the enforcement of the provisions of this Clause.
   5. Each Party:
      1. shall treat all Confidential Information belonging to the other Party as confidential and safeguard it accordingly; and
      2. shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Agreement or except where disclosure is otherwise expressly permitted by the provisions of the Agreement.
   6. The provisions of Clauses 42.1 to 42.5 shall not apply to any Confidential Information received by one Party from the other which:
      1. is or becomes public knowledge (otherwise than by breach of this clause);
      2. was in the possession of the receiving Party, without restriction as to its disclosure, before receiving it from the disclosing Party;
      3. is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
      4. is independently developed without access to the Confidential Information; or
      5. must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations.
   7. Nothing in Clause 42 shall prevent the LFC:
      1. disclosing any Confidential Information for the purpose of:
         * 1. the examination and certification of the LFC’s accounts; or
           2. any examination pursuant to Section 7 of the Local Audit and Accountability Act 2014; or
      2. disclosing any Confidential Information obtained from the Contractor:
         * 1. to any government department, the Greater London Authority or any other Contracting Authority. All government departments, the Greater London Authority or contracting authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other contracting authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority;
           2. to any person engaged in providing any services to the LFC for any purpose relating to or ancillary to the Agreement; or
           3. provided that in disclosing information under Clause 42.7.2.b the LFC discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.
7. PREVENTION OF BRIBERY
   1. The Contractor:
      1. shall not, and shall procure that its Contractor Personnel and Sub-Contractors shall not commit a Prohibited Act; and
      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 LFC, or that an agreement has been reached to that effect, in connection with the execution of this Agreement (excluding any arrangement of which full details have been disclosed in writing to the LFC and which have the LFC’s consent before execution of this Agreement).
   2. The Contractor shall:
      1. if requested, provide the LFC with any reasonable assistance to enable the LFC to perform any activity required by any relevant government or agency for the purpose of compliance with the Bribery Act; and
      2. within ten (10) Working Days of the Commencement Date, and annually thereafter, certify to the LFC in writing (such certification to be signed by a Director of the Contractor) compliance with this Clause 43 by the Contractor and all persons associated with it (the Contractor shall provide such supporting evidence of compliance as the LFC may reasonably request).
   3. The Contractor shall have an anti-bribery policy to tackle prevention of any personnel or Sub-contractors from committing a Prohibited Act and shall fully enforce it.
   4. If any breach of Clause 43.1 is suspected or known, the Contractor must notify the LFC immediately.
   5. If the Contractor notifies the LFC that it suspects or knows that there may be a breach of Clause 43.1, the Contractor must respond promptly to the LFC's enquiries, co-operate with any investigation, and allow the LFC to audit books, records and any other relevant documentation.
   6. The LFC may terminate this Agreement by written notice with immediate effect if it reasonably suspects that the Contractor, its personnel or Sub-Contractors (in all cases whether or not acting with the Contractor's knowledge) has breached Clause 43.1.
   7. Any notice of termination under Clause 43.6 must specify:
      1. the nature of the Prohibited Act;
      2. the identity of the party whom the LFC believes has committed the Prohibited Act; and
      3. the date on which this Agreement will terminate.
   8. Any termination under Clause 43.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the LFC.
8. PROTECTION OF PERSONAL DATA
   1. The provisions of Schedule 5 (Data Protection) apply.
9. COUNTER-TERRORISM AND THE PREVENT DUTY
   1. The Contractor is aware of the LFC’s obligations under the Counter-Terrorism and Security Act 2015 including any guidance, amendments and all subsequent regulations pursuant to this Act. The Contractor will co-operate with the LFC to assist the LFC with its requirements under the Counter-Terrorism and Security Act 2015.
   2. Without prejudice to the generality of the foregoing the Contractor will have a general awareness of the LFC’s due regard to the need to prevent people from being drawn into terrorism and in particular the LFC’s obligation under s.26 of the Counter-Terrorism and Security Act 2015.
10. DISPUTE RESOLUTION
    1. The LFC and the Contractor shall use their best efforts to negotiate in good faith and settle any dispute or difference that may arise out of or relate to this Agreement before resorting to litigation.
    2. If any such dispute or difference is not settled through discussion between the LFC Representative and the Contractor’s Representative, the Parties may refer the dispute or difference to a director or chief executive (or equivalent) (the **“Senior Personnel”**) of each of the Parties for resolution.
    3. If the dispute or difference is not resolved within fourteen (14) Working Days of referral to the Senior Personnel, either Party may propose that a structured mediation or negotiation be entered into with the assistance of a mediator.
    4. If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act, either Party may apply to the Centre for Dispute Resolution (**“CEDR”**) in London to appoint a mediator. The costs of a mediator shall be divided equally between the Parties.
    5. If the Parties reach agreement on the resolution of the dispute or difference, such agreement shall be recorded in writing and once signed by the Parties’ authorised representatives; it shall be final and binding on the Parties.
    6. If the Parties fail to reach agreement within forty (40) Working Days of the appointment of the mediator, such failure shall be without prejudice to the right of either Party to refer the dispute or difference to litigation.
    7. The Contractor shall continue to provide the Services in accordance with the Agreement and without delay or disruption while a dispute or disagreement is being resolved.
11. NO ASSIGNMENT
    1. The Contractor shall not assign or sub-contract this Agreement or any part thereof without the prior written agreement of the LFC.
    2. Where the Contractor sub-contracts any part of its obligations under this Agreement to a third party, the Contractor shall be responsible for payments to that third party.
    3. The appointment of any sub-contractor under this Clause 47 shall not relieve the Contractor from any liability under this Agreement and the Contractor shall remain solely responsible and liable to the LFC for any breach of the Agreement or any performance, non-performance, or part-performance of any of the obligations under this Agreement by any sub-contractor to the same extent as if such breach, performance, non-performance, or part-performance had been carried out by the Contractor.
    4. The Contractor agrees that the LFC may assign, novate, sub-contract or otherwise dispose of, and be released from, any or all of its rights and/or obligations under this Agreement:
       * 1. to any Contracting Authority (not being another Crown Body from whom the LFC is legally indivisible); or
         2. to any successor to the LFC or to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the LFC; or
         3. (only with the prior written consent of the Contractor (which shall not be unreasonably withheld or delayed)) to any other person, provided that the LFC’s assignee or successor in title undertakes in writing to the Contractor to be bound by the obligations of the LFC under this Agreement.
12. ENTIRE AGREEMENT
    1. This Agreement constitutes the entire agreement between the Parties and, save as may be expressly referred to or referenced herein, supersedes and extinguishes all previous and contemporaneous agreements, statements, promises, assurances, warranties, representations, writings, negotiations, and understandings between them, whether written or oral, relating to its subject matter, except in respect of any fraudulent misrepresentation made by either Party.
    2. Any terms purported to apply explicitly or implicitly by the Contractor by any means (including without limitation by way of a quote, invoice or tender) are expressly excluded from this Agreement.
    3. Each Party acknowledges that in entering into this Agreement it does not rely on, and shall have no remedies in respect of any agreement, statement, promise, assurance, warranty, representation, writing, negotiation, or understanding (whether made innocently or negligently) that is not set out in this Agreement.
    4. Each Party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Agreement.
    5. Nothing in this clause shall limit or exclude any liability for fraud.
13. NOTICES
    1. Except as otherwise expressly provided in this Agreement, no communication from one Party to the other Party shall have validity under this Agreement unless made in writing and in English, and signed by, or on behalf of, the LFC or, as the case may be, by or on behalf of the Contractor in accordance with the terms of this Agreement (where appropriate).
    2. Except as otherwise expressly provided, any notice or other communication which either Party hereto is required or authorised by this Agreement to give or make to the other shall be given or made either by post in a prepaid letter, or by e-mail transmission, confirmed by post in a prepaid letter, addressed to the other Party in the manner referred to in Clause 49.3 below and if that letter is not returned as being undelivered that notice or communication shall be deemed for the purposes of this Agreement to have been given or made after two (2) Working Days, or four (4) hours for an e-mail transmission except that where an e-mail transmission is made after 5.00pm it shall be deemed to have been received at 9.00am the following business day (being Mondays to Fridays excluding public holidays in England).
    3. For the purposes of this Clause 49 the address of each Party shall be:

|  |  |  |
| --- | --- | --- |
|  | LFC | Contractor |
| Contact | Anita Tracey |  |
| Postal Address | London Fire Brigade  169 Union Street  London  SE1 0LL |  |
| Email | Anita.tracey@london-fire.gov.uk |  |

* 1. Either Party may change its address or e-mail number for service of notices and other communications by notice as provided in this Clause by written notice to the other Party.

1. WAIVER
   1. A waiver of any right or remedy under this Agreement or by any Legislation is only effective if given in writing and signed by the waiving Party and shall not be deemed a waiver of any subsequent right or remedy.
   2. A failure or delay by a Party to exercise any right or remedy provided under this Agreement or by any Legislation shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this Agreement or by any Legislation shall prevent or restrict the further exercise of that or any other right or remedy.
2. CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999
   1. Subject to Clause 17 (TUPE), a person who is not a Party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the provisions of this Agreement but this shall not affect any other right or remedy of such a person that exists or is available apart from that act.
   2. The Parties may terminate or rescind this Agreement, or agree to any variation, waiver or settlement in connection with it, in accordance with its terms without the consent of any other person.
3. MODERN SLAVERY
   1. The Contractor shall at all times comply (and shall require that each of its Sub-Contractors shall comply) with all Modern Slavery Legislation, including without limitation section 54 of the Modern Slavery Act 2015. The Contractor acknowledges, understands, and accepts that the LFC is subject to the requirements of section 52 of the Modern Slavery Act 2015 (the **“Duty to Notify”**) and, where so requested by the LFC, shall assist and co-operate with the LFC at its own expense in order to enable the LFC to comply with its Duty to Notify. The Contractor hereby warrants that, so far as it is aware, no MSA Offence is occurring within its business or that of its Sub-Contractors or in its supply chain.
   2. The LFC is committed to ensuring contracts are compliant with the Modern Slavery Act 2015. Suppliers with a turnover in excess of £36 million are required to give a Statement on Slavery and Human Trafficking in their supply chain. The Statement is expected to identify:
      1. which aspects of their supply chain they consider are at risk of slavery;
      2. what actions they are taking to increase transparency in the areas at risk;
      3. how they address slavery through supplier selection and flow down of requirements through the supply chain;
      4. the level of leadership involvement in addressing the risk; and
      5. any use of third-party certification standards, third party audits or membership of industry organisations trying to tackle worker conditions in relation to areas of identified risk.
   3. The Supplier shall provide annual updates on their Slavery and Human Trafficking statement, if the Supplier has a turnover in excess of £36 million.
   4. The Supplier shall provide equality and diversity training to all staff involved in directly delivering the Services that will have interaction with the Commissioner’s staff or members of the public on the Commissioner’s behalf.
   5. The Supplier shall provide a copy of their suppliers’ delivery note and invoice for purchases of timber and wood based products, which should state that the items are FSC certified and carry an FSC Chain of Custody number or that of another equivalent sustainable timber certification body. Certificates that identify a supplier as having Chain of Custody certification will not be sufficient proof that the materials supplied are certified products.
   6. The Supplier shall, and shall procure that its Sub-contractors shall, have valid licenses and permits required to undertake the Contract in order to comply with environmental regulations in EU and national law. The Supplier shall provide evidence of such licenses and permits to the Commissioner (for both the Supplier and its Sub-contractors) on reasonable request by the Commissioner, such evidence to be provided within twenty (20) days of such request.
4. LONDON LIVING WAGE
   1. Without prejudice to any other provision of this Agreement, the Contractor shall:
      1. ensure its staff receive a fair wage reflecting the environment in which they work, and that they enjoy contractual terms which represent reasonable minimum standards;
      2. ensure that none of its Contractor Personnel or sub-contractors’ employees engaged in the provision of the Services are paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage (unless otherwise directed by the LFC);
      3. ensure that none of its Contractor Personnel or sub-contractors’ employees engaged in the provision of the Service are paid less than the amount to which they are entitled in their respective contracts of employment;
      4. provide to the LFC such information concerning the application of the London Living Wage as the LFC or its nominees may reasonably require from time to time;
      5. disseminate on behalf of the LFC to its Contractor Personnel and sub-contractors’ employees engaged in the provision of the Services such questionnaires as the LFC may reasonably require from time to time and promptly collate and return to the LFC responses to such questionnaires; and
      6. co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage on the quality of service provided under the Agreement.

Any material breach by the Contractor of the provisions of this Clause 53 shall, subject to Clause 46 (Dispute Resolution), be treated as a material breach capable of remedy in accordance with Clause 29 (Termination).

1. ZERO HOUR CONTRACTS 
   1. The LFC expects all workers in its supply chain to be provided with fair employment conditions. The Contractor shall not use Zero Hour Contracts in the supply of the Services to the LFC for any low paid, low skilled roles without the prior approval of the LFC.
   2. Compliance with Clause 54 above is a condition of the Agreement. In the event that the Contractor breaches any provision of this Clause 54 in a material respect the LFC shall have the right to terminate the Agreement.
2. BLACKLISTING
   1. The Contractor shall comply with the requirements of the Blacklists Regulations and shall ensure that it will not during the Term be a party to or concur in any discriminatory employment practice which could be construed as blacklisting or boycotting any person who has sought employment with the Contractor in breach of the Blacklists Regulations.
3. NO VARIATIONS
   1. No variation or amendment of this Agreement or oral promise or commitment related to it shall be valid or effective unless it is in writing, refers to this Agreement, and is duly signed or executed by the Parties (or their authorised representatives) in accordance with the requirements of Schedule 7 (Change Control Procedure). No change shall take effect unless the process set out in Schedule 7 has been complied with.
4. PRESS AND PR PROTOCOL
   1. Neither Party shall by itself, its employees, or agents (and the Contractor shall procure that its sub-contractors shall not) communicate with members of the press, television, radio, or other communications media on any matter concerning this Agreement without the prior written approval of the other Party except as set out in a protocol in the form set out in Schedule 12 (Press and PR Protocol) as amended from time to time between the Parties.
5. SEVERABILITY
   1. If any provision or part-provision of this Agreement is or becomes be invalid, illegal or unenforceable to any extent, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted and the Parties shall negotiate in good faith an alternative provision that, to the greatest extent possible, achieves the intended result of the deleted provision. Any modification to or deletion of a provision or part-provision under this Clause 58 shall not affect the validity and enforceability of the rest of this Agreement.
6. NO PARTNERSHIP OR AGENCY
   1. The Parties are independent persons and are not partners, principal and agent or employer and employee. Each Party confirms it is acting on its own behalf and not for the benefit of any other person.
   2. Nothing in this Agreement constitutes, or will be deemed to constitute, a partnership between the Parties for any purpose whatsoever, nor make any Party the agent of the other Party or to allow either Party to hold itself out as acting on behalf of the other, save where expressly authorised by the relevant Party. None of the Parties shall have, nor will represent that they have, any authority to make any commitments on the other Party’s behalf.
7. SURVIVAL
   1. On termination or expiry of this Agreement, the following clauses shall continue in full force and effect: Clause 22 (Records Audit and Inspection), Clause 24 (Set-Off), Clause 31 (Consequences of Termination), Clause 32 (Exit Arrangements), Clause 33 (Liability), Clause 34 (Control of claims covered by an indemnity), Clause 35 (Insurance), Clause 41 (Freedom of Information), Clause 42 (Confidentiality), Clause 44 (Protection of Personal Data), Clause 57 (Press and PR Protocol) and Clause 62 (Governing Law and Jurisdiction).
   2. Any other provision of this Agreement that expressly or by implication is intended to come into or continue in force on or after termination or expiry of this Agreement shall remain in full force and effect.
   3. Termination or expiry of this Agreement shall not affect any rights, remedies, obligations, or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Agreement which existed at or before the date of termination or expiry.
8. CHANGE In LAW
   1. In the event of any Change in Law which renders the performance of any obligations to be undertaken by the Contractor more or less costly during the Term then the Contractor shall be entitled to review the Charges. Any resulting decrease in costs should be automatically transferred to the LFC and any proposed increases shall be subject to the agreement of the LFC.
   2. If a Change in Law occurs or is shortly to occur, then either Party may write to the other to express an opinion on its likely effects, giving details of its opinion of:
      1. any necessary change in the Services;
      2. whether any changes are required to the terms of this Agreement to deal with the Change in Law; and/or
      3. whether relief from compliance with any obligations is required during the implementation of any Change in Law,

in each case giving in full detail the procedure for implementing the required changes.

* 1. As soon as practicable after receipt of any notice from either party under Clause 61.2 above, the Parties shall discuss and agree the proposed changes.

1. GOVERNING LAW AND JURISDICTION
   1. The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter of formation, shall be governed by, and construed in accordance with, the law of England and Wales.
   2. Each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation.
2. MACHINERY OF GOVERNMENT CHANGES
   1. If there is a restructuring of the LFC and/or its provision of services or fulfilment of functions, such that either:
      1. the delivery of services or fulfilment of functions provided or fulfilled by the LFC becomes the responsibility of another Government department, agency or other public body; or
      2. the delivery of services or fulfilment of functions provided or fulfilled by another Government department, agency or other public body becomes the responsibility of the LFC; or
      3. the LFC is required to take on new services or fulfil new functions; or
      4. any of the services or functions provided or fulfilled by the LFC cease to be provided or fulfilled by the LFC without being provided or fulfilled by any Government department, agency or other public body in place of the LFC,

then the Parties shall negotiate in good faith in accordance with Clause 56 to agree a Variation to this Agreement that appropriately reflects the amended obligations of the Parties in the light of the restructuring.

* 1. When there is a restructuring pursuant to Clause 63.1, the Contractor shall offer to deliver the Services to the other Government department, agency or public body which takes on responsibility for the services or functions previously the responsibility of the LFC, on terms broadly equivalent to those terms set out in this Agreement.
  2. In the event that the LFC merges with or is taken over by another contracting authority, agency or other public body (the “**Joining Authority**”) during the Term, the LFC and the Joining Authority together shall be entitled to continue to receive the Services.

1. Prompt Payment
   1. The LFC shall aim to pay its SME suppliers within ten (10) Working Days of receipt of a valid invoice, in recognition of the challenge to SMEs of poor cash flow and encourages our supply chain to adopt supporting practices.
2. Environmental Sustainability
   1. The Contractor shall use reasonable endeavours to ensure that the Services are delivered at the least risk to the environment. This includes:
      1. reducing emissions affecting climate change (e.g. carbon dioxide) and air pollution (NOx and PM);
      2. use of scarce natural resources including water;
      3. use or production of waste and dangerous or hazardous substances; and
      4. depletion of biodiversity through loss of habitat.
3. WASTE REDUCTION
   1. The Contractor shall use reasonable endeavours to ensure that packaging used in relation to the Services is kept to a minimum, results in minimal waste production, provides reuse and take back options where relevant and should be made of recycled content that can be readily recycled at end of use where possible. The Contractor shall work with the LFC through the Term to identify improvements in this area.
4. eTHICAL SOURCING
   1. The LFC is committed to ensuring that workers employed in its supply chains throughout the world are treated fairly, humanely and equitably. The Contractor shall work with its supply chain to ensure compliance with the Base Code of the Ethical Trade Initiative (ETI).
   2. If any breach of the Base Code of the Ethical Trade Initiative is identified for any of the Contractor’s suppliers, the Contractor shall:
      1. within six (6) months of request or sooner at the LFC’s request, allow a third-party audit to be carried out; and
      2. within one (1) month of the LFC’s request, prepare a remedial action plan.
   3. Copies of both (audit report and remedial action plan) shall be provided by the Contractor to the LFC along with quarterly monitoring reports with evidence that the action plan is being implemented.

**THIS AGREEMENT** has been signed for and on behalf of the parties the day and year written above.

|  |  |  |
| --- | --- | --- |
| **Signed for and on behalf of LFC:** | )  ) | Signature:  ……………………………………………………………  Name (BLOCK CAPITALS):  ……………………………………  Position:  ………………………………………………………….. |
| **Signed for and on behalf of the Contractor:** | )  ) | Signature:  ……………………………………………………………  Name (BLOCK CAPITALS):  ……………………………………  Position:  ………………………………………………………….. |

1. DEFINITIONS

In this Agreement the following terms shall have the following meanings assigned to them, except where the context requires otherwise:

| **Word or Phrase** | **Meaning** |
| --- | --- |
| **Accrued Performance Failure Points** | means the aggregate number of Performance Failure Points which accrue in any one Monitoring Period; |
| **Affiliate** | means in relation to any person, any holding company or subsidiary of that person or any subsidiary of such holding company, and “holding company” and “subsidiary” shall have the meaning given to them in Section 1159 of the Companies Act 2006 provided that the LFC shall not be construed for any purposes as being an Affiliate of the Contractor; |
| **Agreement** | means this agreement between the LFC and the Contractor for the supply of the Services; |
| **Best Value** | means the duty imposed on the LFC by Part 1 of the Local Government Act 1999 and under which the LFC is under a statutory duty to seek continuous improvement in the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to the guidance issued from time to time by the Secretary of State, Audit Commission and the Chartered Institute of Public Finance and Accountancy (and their successor bodies as the case may be from time to time) pursuant to, or in connection with, Part 1 of the Local Government Act 1999; |
| **Business Day** | means any day excluding Saturdays, Sundays or English public holidays; |
| **CCN** | has the meaning given to it in Schedule 7 to this Agreement; |
| **Central Digital Platform** | has the meaning given to it in Regulation 5(2) of the Procurement Regulations 2024; |
| **Change** | has the meaning given to it in Schedule 7 to this Agreement; |
| **Change Control Procedure** | means the procedure contained within Schedule 7; |
| **Change in Law** | means any Act, relevant laws, regulations, legislation and includes any nationally or internationally recognised standard or nationally or internationally recognised procedural best practice; |
| **Charges** | means the charges payable by the LFC in consideration of the due performance of the Service, as specified in or calculated in accordance with Schedule 3 to this Agreement; |
| **Commencement Date** | means the date of this Agreement entered into between the LFC and the Contractor regarding the commission of the Service; |
| **Commercially Sensitive Information** | means the sub-set of Confidential Information listed in Schedule 8 (Commercially Sensitive Information) to this Agreement; |
| **Conditions** | means the terms and conditions of this Agreement; |
| **Confidential Information** | means all information designated as such by the LFC, whether in writing or otherwise, together with all other information which relates to the business, affairs, developments, trade secrets, know-how, personnel, customers and suppliers of the LFC and other information which may by its nature be reasonably be regarded as confidential information of the LFC; |
| **Consents** | means all permissions, consents, approvals, certificates, permits, licenses and authorisations of a Relevant Authority required for the performance of any of the Contractor’s obligations; |
| **Contract Documents** | means these Conditions and all the Schedules attached to these Conditions; |
| **Contracting Authority** | has the meaning given to it by section 2(1) of the Procurement Act 2023; |
| **Contractor Default** | means a default so designated in this Agreement which entitles the LFC to terminate this Agreement or any of the Services in accordance with Clause 29; |
| **Contractor Personnel** | means those members of the Contractor’s staff who are to provide the Services to the LFC; |
| **Contractor Related Party** | means (a) an officer, servant or agent of the Contractor, or any Affiliate of the Contractor and any officer, servant or agent of such a person; (b) any Sub-Contractor or sub-contractor of the Contractor of any tier and any of their officers, servants or agents; and (c) any person on or at any of the Contractor’s depot at the express or implied invitation of the Contractor (other than an LFC Related Party); |
| **Contractor Representative** | means [*insert on award*] from the Contractor’s personnel who shall be responsible for the day-to-day delivery of the Services; |
| **Contractor’s Proposals** | means the document completed by the Contractor including the Method Statements and set out in Schedule 4 to this Agreement; |
| **Data Protection Legislation** | means all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the DPA 2018 (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party; |
| **Default Notice** | means a notice issued in accordance with clause 29.2.2; |
| **Developed Intellectual Property** | means any and all Intellectual Property developed or created by the Contractor solely and exclusively for this Agreement including any developments, improvements, adaptations or modifications to the Existing Intellectual Property; |
| **Dispute Resolution Procedure** | means the procedure set out in clause 46; |
| **Disputed Amount Notice** | means a notice issued by the LFC disputing an invoice amount in accordance with clause 23.8; |
| **DPA 2018** | means the Data Protection Act 2018; |
| **Employee Liability Information** | means the information in Schedule 9 Annex 2 and Annex 3 as the same may be augmented or amended by the LFC; |
| **Environmental Information Regulations** | the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations; |
| **Equalities Legislation** | means all Legislation which makes unlawful discrimination, harassment and/or victimisation on grounds of age, disability, marital or civil partnership status, sexual orientation, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation or temporary or part-time status in employment or otherwise including, without limitation, the Equality Act 2010, the Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 as amended, the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 and/or any preceding, successor or amending Legislation concerning the same; |
| **Equalities Protocol** | means the equalities protocol set out in Schedule 13 to this Agreement; |
| **Existing Intellectual Property** | means Intellectual Property which has arisen out of the Services being performed or work conducted by the LFC and which is owned by the LFC and controlled by the LFC including knowhow and which the Contractor may be authorised to use in connection with this Agreement; |
| **Exit Management Plan** | meansthe plan to be agreed between the LFC and the Contractor detailing the nature and extent of the Contractor’s obligations to provide exit assistance; |
| **Expiry Date** | means 31st October 2028 unless this Agreement is terminated early or extended in accordance with its terms; |
| **Explanatory Statement** | means a statement prepared by the Contractor submitted with the Service Statement Report in respect of any Performance Failures identified in the report explaining the reasons for the failure and steps taken to mitigate; |
| **Fellow Contractor** | means any other contractor or consultant engaged by the LFC from time to time to carry out works and/or services on behalf of the LFC and/or such other Fellow Contractor appointed by the LFC from time to time and notified to the Contractor; |
| **FOIA** | means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation; |
| **Force Majeure Event** | the occurrence after the date of this Agreement of:  (a) war, civil war, armed conflict or terrorism; or  (b) nuclear, chemical or biological contamination unless the source or cause of the contamination is as a result of any act by the Contractor or its Sub-Contractors or any breach by the Contractor of the terms of this Agreement; or  (c) pressure waves caused by devices travelling at supersonic speeds,  which directly causes either Party (the “Affected Party”) to be unable to comply with all or a material part of its obligations under this Agreement; unless any of the events listed in paragraphs (a) to (c) inclusive arises directly (or indirectly) as a result of any wilful default or wilful act of the Affected Party; |
| **Further Term** | means a period of 1 + 1 (2 years) exercised by the LFC under Clause 4 of this Agreement; |
| **Good Industry Practice** | means that degree of skill, care, prudence and foresight and operating practice which would reasonably and ordinarily be expected from time to time of a skilled and experienced contractor engaged in the same type of undertaking as that of the Contractor under the same or similar circumstances; |
| **Health and Safety Legislation** | the Food Safety Act 1990 (and associated regulations), the Health & Safety at Work etc Act 1974 (and associated regulations), the Fire Precautions Act 1971, the Environmental Protection Act 1990, the Water Industry Act 1991, the Water Resources Act 1991, the Management of Health and Safety at Work Regulations 1999, the Construction (Design and Management) Regulations 2007,the Food and Environment Protection Act 1985, the Electricity at Work Regulations 1989, the Workplace (Health, Safety and Welfare) Regulations 1992 and any similar or analogous health, safety or environmental legislation in force from time to time and approved Codes of Practice and Guidance Notes issued by the Health and Safety Executive; |
| **Implementation Period** | means the period from the Commencement Date to the Service Commencement Date; |
| **Index** | [include relevant index]; |
| **Information** | means information recorded in any form held by the LFC or held by the Contractor on behalf of the LFC; |
| **Information Request** | means a request for Information under the FOI Legislation; |
| **Insolvency Event** | where:   1. the Contractor suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company or limited liability partnership) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 OR (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 OR (being a partnership) has any partner to whom any of the foregoing apply; 2. the Contractor commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors; 3. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of that other party (being a company, limited liability partnership or partnership); 4. an application is made to court, or an order is made, for the appointment of an administrator, or if a notice of intention to appoint an administrator is given or if an administrator is appointed, over the Contractor (being a company or limited liability partnership or partnership); 5. the holder of a qualifying floating charge over the assets of the Contractor (being a company or limited liability partnership) has become entitled to appoint or has appointed an administrative receiver; a person becomes entitled to appoint a receiver over the assets of the Contractor or a receiver is appointed over the assets of the Contractor; 6. the Contractor (being an individual) is the subject of a bankruptcy petition or order; 7. a creditor or encumbrancer of the Contractor attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the other party’s assets and such attachment or process is not discharged within fourteen (14) days; or 8. any event occurs, or proceeding is taken, with respect to the other party in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in (a) to (g) (inclusive); |
| **Intellectual Property** | means patents, trademarks, service marks, rights in design, trade or business names, copyrights, software, database rights (whether or not any of these is registered and including applications for registration of any such thing) know how and any similar or other proprietary rights of such nature; |
| **KPI** | means the Key Performance Indicators set out in Schedule 10; |
| **Legislation** | means all relevant Acts of Parliament and statutory regulations, instruments or orders, guidance, codes of practice, by-laws and directives, judgment of a relevant court of law, or directives or requirements of any regulatory body with which the Contractor is bound to comply, which may be in force during the period of the Agreement, as enacted, amended or interpreted from time to time; |
| **LFC Assets** | means any equipment which the LFC provides free of charge access to for the Contractors use in the provision of the Service; |
| **LFC Premises** | means any land or premises (including temporary buildings) made available to the Contractor by the LFC in connection with the Agreement; |
| **LFC Related Party** | means an officer, agent, or employee of the LFC acting in the course of his office or employment; |
| **LFC Representative** | means the person or persons (together with any duly appointed deputies) appointed by the LFC as its representative in respect of this Agreement, or any replacement notified by the LFC to the Contractor; |
| **LFC RFC** | has the meaning given to it in Schedule 7 to this Agreement; |
| **LFC’s Data** | means any documents, materials and other information of any nature whatsoever relating to the LFC which has been made available to the Contractor for use in providing the Services under the Agreement; |
| **London Living Wage** | means the most recently identified London Living Wage hourly figure (or equivalent set figure(s)) published from time to time by the Greater London Authority or any successor body with responsibility for setting this figure; |
| **Material Sub-Contractor** | a Sub-Contractor that is considered material within the meaning set out in paragraph 6.1 of Schedule 17 (Sub-Contracts and Sub-Contractors); |
| **Method Statement(s)** | means the statements prepared by the Contractor and included at Schedule 4 (Contractor’s Proposals); |
| **Modern Slavery Legislation** | means all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force, including (but not limited to) the Modern Slavery Act 2015 (as amended from time to time); |
| **Monitoring Period** | means a calendar month; |
| **Month** | means calendar month; |
| **MSA Offence** | means any activity, conduct, or practice constituting an offence under Modern Slavery Legislation, including without limitation under sections 1, 2, and 4 of the Modern Slavery Act 2015 (as amended); |
| **New Contractor** | means any replacement contractor nominated by the LFC to perform the Services; |
| **Services** | means the services as further described in the Specification; |
| **Party** | or **“Parties”** means either or both parties to this Agreement and their successors and permitted assignees; |
| **Performance Failure** | means a breach by the Contractor of its obligations under this Agreement including, for the avoidance of doubt, a defect or omission in the provision of the Services; |
| **Performance Failure Points** | means points awarded against the Contractor as a result of its failure to provide the Services in accordance with the Performance Standards as set out in Schedule 10 of the Agreement; |
| **Performance Standards** | means compliance with the standards set out in Schedule 10 of the Agreement; |
| **Personal Data** | has the meaning given to it in the UK GDPR; |
| **Prescribed Rate** | means four per cent (4%) above the base rate from time to time of the Bank of England; |
| **Procurement Challenge** | has the meaning given to it in clause 29.4.1; |
| **Project Manager** | means the Contractor Personnel who shall be responsible for the overall delivery of the Service to the LFC; |
| **Prohibited Act** | the following constitute Prohibited Acts:  (a) to directly or indirectly offer, promise or give any person working for or engaged by the LFC a financial or other advantage to:  (i) induce that person to perform improperly a function or activity; or  (ii) reward that person for improper performance of a function or activity;  (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a function or activity in connection with this Agreement;  (c) committing any offence under the Bribery Act or under other Legislation creating offences concerning fraudulent acts or at common law concerning fraudulent acts relating to this Agreement or any other contract with the LFC;  (d) defrauding, attempting to defraud or conspiring to defraud the LFC; |
| **Regulated Activity** | has the meaning given to it in the SVGA 2006; |
| **Regulated Activity Provider** | has the meaning given to it in the SVGA 2006; |
| **Relevant Authority** | means any court with the relevant jurisdiction and any local, national or supra-national agency, authority, inspectorate, minister, ministry, official or public or statutory person of the government of the United Kingdom; |
| **Relevant Staff** | means all employees and other staff (including without limitation temporary and casual workers and agency staff as defined by Regulation 3 of the Agency Workers Regulations 2010 as amended by the Agency Workers (Amendment) Regulations 2011, and whether or not such staff are engaged or employed on a full or part time basis, but not including unpaid volunteers, interns or apprentices), who are employed or engaged on the Service for two (2) or more hours of work in any given day in a week, for eight (8) or more consecutive weeks in a year; |
| **Required Action** | has the meaning set out in clause 28.6.1; |
| **Senior Personnel** | means a director or chief executive (or equivalent) of either Party; |
| **Service Commencement Date** | means 1st November 2025 |
| **Service Continuity Plan** | means the Contractor’s plan in accordance with BS 25999 and the standards set out in the Schedule 2 (Specification) and Schedule 14 (Service Continuity) to ensure the provision of the Services by other means or the continuing provision of Services which produce the same or substantially the same results for the LFC as the provision of the Services themselves would have done in the event of discovery of an event, occurrence or circumstance which would or might reasonably adversely impact on the continuity of the provision of the Services (or any element of the Services); |
| **Service Continuity Services** | means the the provision of the Services provided under a Service Continuity Plan which produce the same or substantially the same results for the LFC as the provision of the Services themselves would have done; |
| **Service Credit** | means a monetary deduction from the Charges, such deduction calculated in accordance with Schedule 3; |
| **Service Standard** | means the standard to which the Contractor shall perform the Service as further described in clause 8.1; |
| **Service Statement Report** | means the report prepared as set out in Schedule 15 (Contract Management and Management Information System) submitted to the LFC in respect of each Monitoring Period; |
| **Specification** | means the specification set out in Schedule 2 to this Agreement; |
| **Step-in Notice** | means a notice served by the LFC on the Contractor in accordance with clause 28.5; |
| **Step-out Date** | the date on which the LFC plans to end the Required Action in accordance with clause 28.9.2; |
| **Step-out Notice** | means a notice served by the LFC on the Contractor in accordance with clause 28.9; |
| **Step-out Plan** | means a plan developed by the Contractor relating to the resumption by the Contractor of the Services in accordance with clause 28.10; |
| **Sub-Contractor** | means any third party whom the Contractor enters into a sub-contract with to provide all or part of the Service; |
| **SVGA 2006** | means the Safeguarding Vulnerable Groups Act 2006; |
| **Term** | means a period of 3 years set out in Clause 4 of this Agreement; |
| **Termination Date** | means the date this Agreement is terminated in accordance with its terms; |
| **UK GDPR** | has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the DPA 2018; |
| **Working Day** | any day of the week from Monday to Friday inclusive but excluding all public holidays in England. |

1. specification

Please refer to 'Appendix K – Specification Document' within the ITT document, and/or review the accompanying attachment below;



1. CHARGES

[Insert on award]

1. CONTRACTOR’S Proposals

[Insert on award]

1. DATA PROTECTION
2. DEFINITIONS
   1. In this Schedule the following phrases have the following meanings:

|  |  |
| --- | --- |
| **Word or Phrase** | **meaning** |
| Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer | have the meanings given in the UK GDPR; |
| Data Loss Event | any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss (“Data Loss”) and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach; |
| Data Protection Impact Assessment | means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data; |
| Data Subject Request | a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data; |
| Joint Controllers | where two or more Controllers jointly determine the purposes and means of processing; |
| Law | means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Processor is bound to comply; |
| Processor Personnel | means all directors, officers, employees, agents, consultants and contractors of the Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement; |
| Protective Measures | appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of such measures adopted by it; |
| Sub-processor | any third Party appointed to process Personal Data on behalf of that Processor related to this Agreement. |

* 1. For the avoidance of doubt, and notwithstanding anything to the contrary contained in this Agreement, the provisions of this Schedule 5 (Data Protection) shall survive the expiry or earlier termination of this Agreement and continue in full force and with full effect without limit in point of time.
  2. Each Party shall be solely responsible and liable for its own compliance with the Data Protection Legislation and, notwithstanding any provisions to the contrary in this Agreement, each Party (the “**Indemnifying Party**”) shall on first demand fully indemnify the other Party (the “**Indemnified Party**”) and keep the Indemnified Party fully indemnified against all Data Losses incurred, suffered, or brought against the Indemnified Party arising out of, due to, and in connection with a failure by the Indemnifying Party to comply with its obligations as a Controller under the Data Protection Legislation or a breach by the Indemnifying Party of any of its obligations under this Schedule 5 (Data Protection). For the avoidance of doubt, notwithstanding any provision to the contrary in this Agreement, the Indemnifying Party’s liability under the indemnity contained in this paragraph 1.3 shall not be limited.
  3. Each Party warrants that in carrying out its obligations under this Agreement it will not do or omit to do anything that might cause the other Party to be in breach of the Data Protection Legislation.

1. DATA PROTECTION
   1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the LFC is the Controller, and the Contractor is the Processor unless otherwise specified in Annex 1. The only processing that the Processor is authorised to do is listed in Annex 1 by the Controller and may not be determined by the Processor.
   2. The Processor shall notify the Controller immediately if it considers that any of the Controller's instructions infringe the Data Protection Legislation.
   3. The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:
      1. a systematic description of the envisaged processing operations and the purpose of the processing;
      2. an assessment of the necessity and proportionality of the processing operations in relation to the Services;
      3. an assessment of the risks to the rights and freedoms of Data Subjects; and
      4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
   4. The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:
      1. process that Personal Data only in accordance with Annex 1, unless the Processor is required to do otherwise by Law. If it is so required, the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;
      2. ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
         1. nature of the data to be protected;
         2. harm that might result from a Data Loss Event;
         3. state of technological development; and
         4. cost of implementing any measures;
      3. ensuring that:
         1. the Processor Personnel do not process Personal Data except in accordance with this Agreement (and in particular Annex 1);
         2. it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:
            1. are aware of and comply with the Processor’s duties under this paragraph;
            2. are subject to appropriate confidentiality undertakings with the Processor or any Sub-Processor;
            3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Controller or as otherwise permitted by this Agreement; and
            4. have undergone adequate training in the use, care, protection and handling of Personal Data; and
      4. not transfer Personal Data outside of the UK unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:
         1. the Controller or the Processor has provided appropriate safeguards in relation to the transfer (whether in accordance with guidance issued by the UK Government or body appointed by the Government and as approved by the Controller);
         2. the Data Subject has enforceable rights and effective legal remedies;
         3. the Processor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Controller in meeting its obligations); and
         4. the Processor complies with any reasonable instructions notified to it in advance by the Controller with respect to the processing of the Personal Data;
      5. at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Agreement unless the Processor is required by Law to retain the Personal Data.
   5. Subject to paragraph 2.6, the Processor shall notify the Controller immediately if it:
      1. receives a Data Subject Request (or purported Data Subject Request);
      2. receives a request to rectify, block or erase any Personal Data;
      3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
      4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;
      5. receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
      6. becomes aware of a Data Loss Event.
   6. The Processor’s obligation to notify under paragraph 2.5 shall include the provision of further information to the Controller in phases, as details become available.
   7. Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under paragraph 2.5 (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
      1. the Controller with full details and copies of the complaint, communication or request;
      2. such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
      3. the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
      4. assistance as requested by the Controller following any Data Loss Event;
      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. The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this paragraph 2.8. This requirement does not apply where the Processor employs fewer than 250 staff, unless:
      1. the Controller determines that the processing is not occasional;
      2. the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
      3. the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
   9. The Processor shall allow for audits of its data processing activity by the Controller or the Controller’s designated auditor.
   10. Each Party shall designate its own data protection officer if required by the Data Protection Legislation.
   11. Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Processor must:
       1. notify the Controller in writing of the intended Sub-processor and processing;
       2. obtain the written consent of the Controller;
       3. enter into a written agreement with the Sub-processor which give effect to the terms set out in this paragraph 2.11 such that they apply to the Sub-processor; and
       4. provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
   12. The Processor shall remain fully liable for all acts or omissions of any of its Sub-processors.
   13. The Controller may, at any time on not less than thirty (30) Working Days’ notice, revise this paragraph by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).
   14. The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Controller may on not less than thirty (30) Working Days’ notice to the Processor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner’s Office.
   15. The Contractor shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the LFC to breach any of its applicable obligations under the Data Protection Legislation.
   16. The Contractor shall indemnify and keep indemnified the LFC against all losses, claims, damages, liabilities, costs and expenses (including reasonable legal costs) incurred by it in respect of any breach of this Schedule 5 by the Contractor and/or any act or omission of any sub-contractor.

Annex 1

Processing, Personal Data and Data Subjects

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

* 1. The contact details of the Controller’s Data Protection Officer are:
     1. London Fire Brigade, 169 Union Street, London SE1 0LL.
     2. Telephone: 020 8555 1200.
     3. Email: [dataprotectionofficer@london-fire.gov.uk](mailto:dataprotectionofficer@london-fire.gov.uk)
     4. ICO register number: Z7122455
  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[[1]](#footnote-2)** |
| --- | --- |
| Identity of the Controller and Processor | The Parties acknowledge that for the purposes of the Data Protection Legislation, the LFC is the Controller, and the Contractor is the Processor in accordance with paragraph 1.1. |
| Subject matter of the processing |  |
| Duration of the processing |  |
| Nature and purposes of the processing |  |
| Type of Personal Data being processed |  |
| Categories of Data Subject |  |
| 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 |  |

1. POLICIES AND STANDARDS

The LFC Policies are:

Ethical Sourcing Policy: Policy 1006



Counter Fraud and Corruption Policy and Response Plan: Policy 0568



The GLA Group Responsible Procurement Policy: Policy 0696



The LFC’s Press and PR Protocols **as per Schedule 12**

The Equalities Protocol **set out in Schedule 13**

The Service standards **as detailed in Schedule 10**

1. CHANGE CONTROL PROCEDURE

In this Schedule, the following words and phrases shall have the meanings set out below:

|  |  |
| --- | --- |
| **CCN** | a change control notice issued by the LFC to the Contractor confirming acceptance of the Change Response (as agreed or determined pursuant to the Dispute Resolution) or the Contractor's RFC (as modified) as the case may be; |
| **Change** | a change to the Services; |
| **Change Response** | the Contractor’s response to an LFC RFC prepared in accordance with Paragraph 6.1 below; |
| **LFC RFC** | a Request for Change (RFC) issued by the LFC; |
| **Contractor RFC** | a Request for Change (RFC) issued by the Contractor; |
| **Financial Proposal** | a proposal detailing the financial impact of the proposed Change produced in accordance with Paragraph 6.4 below; |
| **Impact Assessment** | an impact assessment produced in accordance with Paragraph 6.2 below; |
| **Implementation Plan** | a plan for the implementation of a Change produced in accordance with Paragraph 6.3 below. |

1. PURPOSE
   1. This Schedule sets out the procedures to be used by the Parties in connection with proposed Changes.
2. PRINCIPLES
   1. Implementation of changes for which there is an agreed mechanism (excluding this Change Control Procedure) set out or referred to in this Agreement shall not constitute Changes to which this Change Control Procedure applies.
   2. The Parties shall conduct discussions relating to proposed Changes in good faith.
   3. Until such time as a CCN has been signed by the LFC Representative and the Contractor Representative (or their nominated representative), the Contractor shall continue to supply the Service in accordance with the Agreement.
   4. Any work undertaken by the Contractor, its sub-contractors or agents which has not been authorised in advance by the LFC and which has not been otherwise agreed in accordance with this Change Control Procedure shall be undertaken entirely at the expense and liability of the Contractor.
   5. Any discussions, negotiations or other communications which may take place between the Parties prior to the issue of a CCN (including the submission of any written communications) shall be without prejudice to the rights of either Party.
3. REQUESTS FOR CHANGE ("RFC")
   1. The LFC shall be entitled to:

(a) request any Change; and

(b) require a Change from time to time to reflect any Change in Law.

* 1. The Contractor shall be entitled to request a Change to the Services from time to time to reflect any Change in Law that directly impacts upon the Contractor’s provision of the Services.
  2. The Contractor shall only be entitled to request a Change to the Services if such Change:

(a) enhances the Contractor’s operational effectiveness in providing the Services or takes advantage of technological developments so as to improve the provision of the Services; and

(b) will not increase the overall cost of providing the Services; and

(c) will not have a detrimental effect on the overall quality of the Services.

* 1. The LFC may at its absolute discretion reject any request for a Change to the Services or to the Method Statements proposed by the Contractor.

1. THE LFC RFC
   1. If the LFC wishes to request or requires a Change, it must serve an LFC RFC on the Contractor.
   2. The LFC RFC shall:

(a) set out the Change required in sufficient detail to enable the Contractor to provide the Change Response; and

(b) specify the deadline by which the Contractor shall provide to the LFC a Change Response (being not less than twenty-one (21) Working Days from and including the date of receipt of the LFC RFC) ("**Response Deadline"**).

* 1. As soon as practicable, and in any event by the Response Deadline, the Contractor shall deliver to the LFC the Change Response.
  2. As soon as practicable after the LFC receives the Change Response, the Parties shall discuss and agree the issues set out in the Change Response. In such discussions:

(a) the LFC may modify the LFC RFC, in which case the Contractor shall, as soon as practicable and in any event within fourteen (14) Working Days from and including the date of receipt of such modification, notify the LFC of any consequential changes to the Change Response; and

(b) the Contractor shall provide such additional information as the LFC reasonably requests in order to evaluate the Change Response fully.

* 1. The Contractor shall not refuse an LFC RFC unless such Change would, to the reasonable satisfaction of the LFC:

(a) materially and adversely affect the risks to health and safety of any person;

(b) require the Service to be performed in any way that infringes a Law; and/or

(c) is demonstrated by the Contractor to:

(i) be technically impossible to implement (where neither the Method Statements or the Services description states that the Contractor has the technical capacity and flexibility required to implement the proposed Change); or

(ii) represent a material risk to the Services; or

(iii) is predicted to have a material impact on the ability of the Contractor to meet any KPI where, as a result of the Change, the KPI is not modified accordingly.

* 1. If the Parties cannot agree on the contents of the Change Response then the dispute will be determined in accordance with Clause 46 (Dispute Resolution).
  2. As soon as practicable after the contents of the Change Response have been agreed or otherwise determined pursuant to the Dispute Resolution, the LFC shall either:

(a) issue a CCN; or

(b) withdraw the LFC RFC.

* 1. If the LFC does not issue a CCN within thirty (30) Working Days from and including the date of the contents of the Change Response having been agreed or determined, then the LFC RFC shall be deemed to have been withdrawn.
  2. In the event that the LFC issues a CCN then:

1. the Contractor shall implement the Change in accordance with the Implementation Plan; and
2. the Parties shall enter into any documents necessary to amend this Agreement or any relevant related document which are necessary to give effect to the Change.
3. CONTRACTOR RFC
   1. If the Contractor wishes to request a Change, it must serve a Contractor RFC on the LFC.
   2. The Contractor RFC must:

(a) set out the proposed Change in sufficient detail to enable the LFC to evaluate it in full;

(b) specify the Contractor’s reasons for proposing the change in the Services;

(c) include an Impact Assessment, an Implementation Plan and a Financial Proposal;

(d) indicate if there are any dates by which a decision by the LFC is critical.

* 1. The LFC shall evaluate the Contractor’s proposed change in the Service in good faith, taking into account all relevant issues, including whether:

(a) there would be a change to the financial arrangements;

(b) the Change affects the quality of the Service or the likelihood of successful delivery of the Services;

(c) the Change will interfere with the relationship of the LFC or the Contractor with third parties;

(d) the financial strength of the Contractor is insufficient to perform the changed Services;

(e) the Change materially affects the risks or costs to which the LFC are exposed; or

(f) the Change would, if implemented, result in a change in the nature of the Services.

* 1. As soon as practicable after receiving the Contractor RFC, the Parties shall meet and discuss the matter referred to in it. During their discussions the LFC may propose modifications or accept or reject the Contractor RFC.
  2. If the LFC accepts the Contractor RFC (with or without modification), the LFC shall issue a CCN.
  3. In the event that the LFC issues a CCN then:

(a) the Contractor shall implement the Change in accordance with the Implementation Plan; and

(b) the Parties shall enter into any documents necessary to amend this Agreement or any relevant related document which are necessary to give effect to the Change.

* 1. If the LFC rejects the Contractor RFC, it shall advise the Contractor of the criteria set out in the above Paragraph 5.3 upon which its decision for such a rejection is based.

1. CONTENT OF DOCUMENTS

**Change Response**

* 1. The Change Response shall consist of:

(a) the Impact Assessment;

(b) the Implementation Plan; and

(c) the Financial Estimate.

**Impact Assessment**

* 1. The Impact Assessment shall include details of:

(a) any impact on the provision of the Services;

(b) any impact on the Contractor’s ability to meet its obligations under this Agreement;

(c) any amendment required to this Agreement and/or any related document as a result of the Change;

(d) details (where known) of the potential impact on any third parties;

(e) details of how the proposed Change will ensure compliance with any applicable Change in Law; and

(f) such other information as the LFC may reasonably request in (or in response to) an RFC.

**Implementation Plan**

* 1. The Implementation Plan shall include details of:

(a) the activities necessary to implement the proposed Change;

(b) appropriate allocations of responsibility;

(c) project plan including timelines and key dates, milestones and deadlines;

(d) the activities required to address issues identified in the Impact Assessment; and

(e) the activities required to implement the Financial Proposal.

**Financial Proposal**

* 1. The Financial Proposal shall include details of:

(a) the estimated capital expenditure (if any), including any capital replacement costs, arising from or required to implement the Change;

(b) the estimated increase in operating expenditure relating to the provision of the Service, with an analysis showing the costs of staff, consumables, sub-contracted and bought-in services, after the Change is implemented;

(c) any interest, expenses or other third party financing costs to be incurred as a result of implementing the Change;

(d) details of any estimated overhead recoveries and long-term cost savings that are anticipated after the Change is implemented; and

(e) the profit which the Contractor seeks to achieve in the provision of the additional parts of the Services.

**SCHEDULE 7 Appendix A**

**Template Change Control Note**

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Change Control Note** | | | | CCN Number: | |
| **Part A: Request for Change** | | | |  | |
| Title: | |  | | | |
| Originator: | |  | Contact Number: | |  |
| Sponsor: | |  | Contact Number: | |  |
| Date of Initiation: | |  | Required by date: | |  |
| Priority Category: (emergency, fast-track or normal) | |  | | | |
| **Details of Proposed Change** | | | | | |
| (To include reason for change and appropriate details/specifications. Identify any attachments as A1, A2, A3, etc. Give an indication of required amendments to the Clauses or Schedules.) | | | | | |
|  | | | | | |
| **Initiated by [insert name]** | **Date:** | | | | |
| **Name:** |  | | | | |
| **Signature:** |  | | | | |
| **Received by [insert name]** | **Date:** | | | | |
| **Name:** |  | | | | |
| **Signature:** |  | | | | |

|  |  |
| --- | --- |
| **Change Control Note** | **CCN Number:** |
| **Part B : Impact Assessment** | |
| (identify any attachments as B1, B2, B3, etc.)  Changes to the Services, KPIs and any other Changes to the Clauses, Schedules or other documentation required to be kept by the Contractor. | |
| **Brief Description of Change:** | |
| **Impact:**  (Refer to any impact analysis attachment where applicable) | |
| **Proposed Solution:**  Sufficient detail describing the solution to meet the Request for Change, and any options considered | |
| **Dependencies:**  dependencies on:   * Third party contractors * The LFC * Other parties | |
| **Deliverables:** Including:   * The work to implement the change * The details of the Schedules that will require amendment * The details of any Clauses that require amendment * The details of any documentation that requires amendment | |
| **Project Plan:** | |
| **Costs of Implementation:**  (If not applicable, mark “Not Applicable”) | |
| **Amendments to the Clauses and Schedules:** | |
| **Other Relevant Information:**  (including) | |

|  |  |
| --- | --- |
| **For LFC** | **For Contractor** |
| **Name:** | **Name:** |
| **Title:** | **Title:** |
| **Signature:** | **Signature:** |
| **Date:** | **Date:** |

1. COMMERCIALLY SENSITIVE INFORMATION

[Insert on award]

1. TUPE AND PENSIONS (NOT USED)
2. Definitions 
   1. For the purposes of this Schedule 9, the following terms shall have the meanings given to them below:

| **Phrase** | **Meaning** |
| --- | --- |
| **Admission Agreement** | an admission agreement entered into in accordance with Regulation 5 of the LGPS Regulations (as amended from time to time) by the LFC and the Contractor or Sub-Contractor (as appropriate); |
| **Admission Body** | an admission body within the meaning of paragraph 1 of Part 3 of Schedule 2 of the LGPS Regulations; |
| **Assigned Employees** | has the meaning set out in paragraph 2.8.1.1; |
| **Cessation Date** | the earlier date of:   * + - 1. the date of expiry or earlier termination of the Agreement;       2. the date the Admission Body ceases to employ any Eligible Employee; or       3. the date the Admission Body otherwise ceases to be an admission body for the purposes of the LGPS Regulations; |
| **LFC and Contractor** | are both defined in the Agreement; |
| **LFC Related Party** | means any officer, agent, employee of the LFC acting in the course of his office or employment including any Sub-Contractors supplied by the LFC in relation to the Services; |
| **Direct Losses** | means all damages, losses, indebtedness, claims, actions, cash, expenses (including the cost of legal or professional services, legal costs being an agent/client, client paying basis), proceedings, demands and charges whether arising under statute, contract or at common law but to avoid doubt, excluding Indirect Losses; |
| **Directive** | means the EC Acquired Rights Directive 2001/23/EC as amended; |
| **Eligible Employees** | 1. those Transferring Employees who are active members of or eligible to join the LGPS on the Commencement Date; 2. other Relevant Employees who are active members of or eligible to join the LGPS as at the applicable Relevant Transfer Date; |
| **Employee Liability Information** | means the information which a transferor is obliged to notify to a transferee pursuant to Regulation 11(1) of TUPE regarding any person employed by him who is assigned to the organised grouping of resources or employees which is the subject of a Relevant Transfer and also such employees as fall within Regulation 11(4) of TUPE; |
| **Existing Contractor** | means Telemaster Ltd; |
| **Final Employee List** | has the meaning set out in paragraph 2.4.2; |
| **First Employee List** | has the meaning set out in paragraph 2.4.1; |
| **Future Contractor** | has the meaning set out in paragraph 2.6.2; |
| **Indirect Losses** | means loss of profits, loss of use, loss of production, loss of business, loss of business opportunity, or any claim for consequential loss or for indirect loss of any nature; |
| **LGPS Regulations** | means the Local Government Pension Scheme Regulations 2013; |
| **Local Government Pension Scheme** | means the Local Government Pension Scheme established pursuant to regulations made by the Secretary of State in exercise of powers under Sections 7 and 12 of the Superannuation Act 1972 as amended from time to time; |
| **Charges** | is defined in the Agreement; |
| **Relevant Employees** | means the employees who are the subject of a Relevant Transfer; |
| **Relevant Transfer** | means a relevant transfer for the purposes of the Regulations; |
| **Relevant Transfer Date** | the date on which a Relevant Employee transfers to the Contractor and/or one or more Sub-Contractor by virtue of a Relevant Transfer; |
| **Retendering Information** | has the meaning set out in paragraph 2.8.1.1; |
| **Returning Employees** | has the meaning set out in paragraph 2.9.2; |
| **Services** | is defined in the Agreement; |
| **Sub-Contractor** | means a person to whom the Contractor sub-contracts any of its obligations to deliver the Services; |
| **Transferring Employee** | means an employee of the Existing Contractor whose contract of employment transfers to the Contractor under TUPE at the Commencement Date, as listed at paragraph 4 of this Schedule 5; |
| **TUPE** | means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (246/2006) and or any other regulations enacted for the purpose of implementing the Directive into English law. |

1. Relevant Transfers (NOT USED)
   1. **Retendering**
      1. The Contractor shall (and shall procure that any Sub-Contractor shall) within the period of twelve (12) months immediately preceding the expiry of this Agreement or following the service of a notice to terminate the Agreement early in accordance with its terms or as a consequence of the LFC notifying the Contractor of its intention to retender this Agreement:
         1. within 20 Working Days of receiving a request from the LFC provide in respect of any person engaged or employed by the Contractor or any Sub-Contractor in the provision of the Services (the “Assigned Employees”) full and accurate details regarding the identity, number, age, sex, length of service, job title, grade and terms and conditions of employment or and the other matters listed in Annex 1 to this Schedule 9 affecting each of those Assigned Employees who it is expected, if they remain in the employment of the Contractor or of any Sub-Contractor as the case may be until immediately before the Termination Date, would be Returning Employees (the “Retendering Information”);
         2. provide the Retendering Information promptly and at no cost to the LFC;
         3. notify the LFC forthwith in writing of any material changes to the Retendering Information promptly as and when such changes arise;
         4. be precluded from making any material increase or decrease in the numbers of Assigned Employees other than in the ordinary course of business and with the LFC’s written consent (such consent not to be unreasonably withheld or delayed);
         5. be precluded from making any increase in the remuneration or other change in the terms and conditions of the Assigned Employees other than in the ordinary course of business and with the LFC’s prior written consent (such consent not to be unreasonably withheld or delayed); and
         6. be precluded from transferring any of the Assigned Employees to another part of its business or moving other employees from elsewhere in its or their business who have not previously been employed or engaged in providing the Services to provide the Services save with the LFC’s prior written consent.
      2. Without prejudice to paragraphs 2.8.1 and 2.8.3 the Contractor shall provide and shall procure that any Sub-Contractor shall provide Employee Liability Information to the LFC at such time or times as are required by TUPE, and shall warrant at the time of providing such Employee Liability Information, that such information will be updated to take account of any changes to such information as is required by TUPE.
      3. The Contractor shall and shall keep indemnified in full the LFC and at the LFC’s request any Future Contractor against all Direct Losses arising from any claim by any party as a result of the Contractor (or any Sub-Contractor) failing to provide or promptly to provide the LFC and/or any Future Contractor where requested by the LFC with any, or full, Retendering Information and/or Employee Liability Information or as a result of any material inaccuracy in or omission from the Retendering Information and/or Employee Liability Information.
   2. **Termination of Agreement**
      1. On the expiry or earlier termination of this Agreement, the LFC and the Contractor agree that it is their intention that TUPE shall apply in respect of the re-provision thereafter of any service equivalent to the Services but the position shall be determined in accordance with the law at the date of expiry or termination as the case may be and this paragraph is without prejudice to such determination.
      2. For the purposes of this paragraph 2.9 **“Returning Employees”** shall mean those employees wholly or mainly engaged in the provision of the Services as the case may be as immediately before the expiry or termination of this Agreement whose employment transfers to the LFC or a Future Contractor pursuant to TUPE. Upon expiry or termination of this Agreement for whatever reason (such date being termed the **“Return Date”**), the provisions of this paragraph 2.9 will apply:
         1. the Contractor shall or shall procure that all wages, salaries and other benefits of the Returning Employees and other employees or former employees of the Contractor or the Sub-Contractors (who had been engaged in the provision of the Services) and all PAYE tax deductions, pension contributions and national insurance contributions relating thereto in respect of the employment of the Returning Employees and such other employees or former employees of the Contractor or Sub-Contractors up to the Return Date are satisfied;
         2. without prejudice to paragraph 2.9.2.1, the Contractor shall:
            1. remain (and procure that Sub-Contractors shall remain) (as relevant) responsible for all the Contractor’s or Sub-Contractor’s employees (other than the Returning Employees) on or after the time of expiry or termination of this Agreement and shall indemnify the LFC and any Future Contractor against all Direct Losses incurred by the LFC or any Future Contractor resulting from any claim whatsoever whether arising before on or after the Return Date by or on behalf of any of the Contractor’s or Sub-Contractor’s employees who are not Returning Employees;
            2. in respect of those employees who constitute Returning Employees the Contractor shall indemnify the LFC and any Future Contractor against all Direct Losses incurred by the LFC or any Future Contractor resulting from any claim whatsoever by or on behalf of any of the Returning Employees in respect of the period on or before the Return Date (whether any such claim, attributable to the period up to and on the Return Date, arises before, on or after the Return Date) including but not limited to any failure by the Contractor of any Sub-Contractor to comply with its or their obligations under Regulations 13 and 14 of TUPE and any award of compensation under Regulation 15 of TUPE and/or Article 6 of the Directive as if such legislation applied, even if it does not in fact apply save to the extent that any such failure to comply arises as a result of an act or omission of the LFC or any Future Contractor.
      3. The LFC shall be entitled to assign the benefit of this indemnity to any Future Contractor.
   3. **Sub-Contractors**

In the event that the Contractor enters into any sub-contract in connection with this Agreement, it shall impose obligations on its Sub-Contractors in the same terms as those imposed on it pursuant to paragraphs 2 (TUPE) and 3 (Pensions) of this Schedule and shall procure that the Sub-Contractor complies with such terms. The Contractor shall indemnify and keep the LFC indemnified in full against all Direct Losses, incurred or by the LFC or any Future Contractor as a result of or in connection with any failure on the part of the Contractor to comply with this paragraph and/or the Sub-Contractor’s failure to comply with such terms.

1. Pensions for eligible employees (NOT USED)
   1. **Indemnity for a Breach of the Admission Agreement**

Without prejudice to the generality of this paragraph 3, the Contractor hereby indemnifies the LFC and/or any Future Contractor and, in each case, their sub-contractors from and against all Direct Losses suffered or incurred by it or them which arise from any breach by the Contractor or any Sub-Contractor of the terms of the Admission Agreement to the extent that such liability arises before or as a result of the termination or expiry of this Agreement (howsoever caused).

* 1. **Indemnity or Bond**

Without prejudice to the generality of the requirements of this paragraph 3, the Contractor shall procure that it and each relevant Sub-Contractor shall as soon as reasonably practicable obtain any indemnity or bond required in accordance with the applicable Admission Agreement.

* 1. **Right of Set-Off**

In accordance with paragraph 12(c) of Schedule 2 of the LGPS Regulations, the LFC shall have a right to set off against any payments due to the Contractor under this Agreement an amount equal to any overdue employer and employee contributions and other payments (and interest payable under the LGPS Regulations) due from the Contractor or from any relevant Sub-Contractor (as applicable) under the Admission Agreement.

* 1. **Contractor Ceases to be an Admission Body**
     1. If the Contractor or any Sub-Contractor employs any Eligible Employees from a Relevant Transfer Date and:
        1. the Contractor or any relevant Sub-Contractor does not wish to offer those Eligible Employees membership of the LGPS; or
        2. the LFC, the Contractor or any relevant Sub-Contractor are of the opinion that it is not possible to operate the provisions of paragraphs 3.1 (Contractor to Become an Admission Body) to 3.5 (Right of Set Off) inclusive; or
        3. if for any reason after the Relevant Transfer Date the Contractor or any relevant Sub-Contractor ceases to be an Admission Body other than on the date of termination or expiry of this Agreement or because it ceases to employ any Eligible Employees,

then the provisions of paragraph 3.1 (Contractor to Become an Admission Body) to 3.5 (Right of Set Off) inclusive shall not apply (without prejudice to any rights of the LFC under those paragraphs) and the provisions of paragraph 3.7 (Contractor Scheme) shall apply.

* + 1. If the Contractor or any Sub-Contractor ceases to employ any Eligible Employee in delivery of the Services, then the Admission Agreement shall expire in accordance with its terms and the Contractor (or Sub-Contractor) shall cease to be an Admission Body.
  1. **Contractor Scheme**
     1. Where paragraph 3.1 does not apply, the Contractor shall or shall procure that any relevant Sub-Contractor shall not later than the Relevant Transfer Date or the Cessation Date (as the case may be) nominate to the LFC in writing the occupational pension scheme or schemes which it proposes shall be the “Contractor Scheme” for the purposes of this paragraph 3.7. Such pension scheme or schemes must be:
        1. established within three (3) months prior to the Relevant Transfer Date or Cessation Date (as the case may be);
        2. reasonably acceptable to the LFC (such acceptance not to be unreasonably withheld or delayed);
        3. a registered pension scheme for the purposes of Part 4 of the Finance Act 2004; and
        4. certified by an actuary nominated by the LFC in accordance with relevant guidance produced by the Government Actuary’s Department as providing benefits which are the same as, broadly comparable to or better than those benefits provided by the LGPS.
     2. The Contractor undertakes to the LFC (for the benefit of the LFC itself and for the LFC as agent and trustee for the benefit of the Eligible Employees) that it shall and shall procure that any relevant Sub-Contractor shall procure that:
        1. the Eligible Employees shall by three (3) months before the Relevant Transfer Date or the Cessation Date (as the case may be) be offered membership of the Contractor Scheme with effect from and including the Relevant Transfer Date or Cessation Date (as the case may be);
        2. the Contractor Scheme shall provide benefits in respect of the Eligible Employees’ periods of service on and after the Relevant Transfer Date or Cessation Date (as the case may be ) which an actuary nominated by the LFC in accordance with relevant guidance produced by the Government Actuary’s Department shall certify to be the same as, broadly comparable to or better than the benefits which the Eligible Employees were entitled to under the LGPS at the Relevant Transfer Date or the Cessation Date (as the case may be);
        3. on and from the Relevant Transfer Date or Cessation Date (as the case may be) until the earlier of:

three (3) months after the date on which the Eligible Employees are first able to join the Contractor Scheme; and

the date on which the Eligible Employee joins the Contractor Scheme,

the Contractor shall provide death benefits for and in respect of the Eligible Employees which are certified by an actuary nominated by the LFC in accordance with relevant guidance produced by the Government Actuary’s Department as being the same as, broadly comparable to or better than those that would otherwise have been provided in respect of those Eligible Employees by the LGPS;

* + - 1. if the Contractor Scheme is terminated, a replacement pension scheme shall be provided with immediate effect for those Eligible Employees who are still employed by the Contractor or relevant Sub-Contractor. The replacement scheme must comply with this paragraph 3.7 (Contractor Scheme) as if it were the Contractor Scheme; and
      2. before the Relevant Transfer Date or Cessation Date (as the case may be) the trustees of the Contractor Scheme shall undertake by deed to the LFC that they shall cooperate with the provisions of paragraph 3.7 (Contractor Scheme), and 3.8 (Undertaking from the Contractor) to the extent applicable to them.
  1. **Undertaking from the Contractor**
     1. The Contractor undertakes to the LFC (for the benefit of the LFC itself and for the LFC as agent and trustee for the benefit of the Eligible Employees) that:
        1. all information which the LFC or their respective professional advisers may reasonably request from the Contractor or any relevant Sub-Contractor for the administration of the LGPS or concerning any other matters raised in paragraph 3.7 (Contractor Scheme), or this paragraph 3.8 shall be supplied to them as expeditiously as possible;
        2. it shall not (and shall procure that any relevant Sub-Contractor shall not), without the consent in writing of the LFC (which shall only be given subject to the payment by the Contractor or the relevant Sub-Contractor of such reasonable costs as the LFC may require) consent to instigate, encourage or assist any event which could impose on the LFC a cost in respect of any Eligible Employee greater than the cost which would have been payable in respect of that Eligible Employee had that consent, instigation, encouragement or assistance not been given;
        3. until the Relevant Transfer Date, it shall not (and shall procure that any relevant Sub-Contractor shall not) issue any announcements (whether in writing or not) to the Eligible Employees concerning the matters stated in paragraphs 3.1 (Contractor to Become an Admission Body) to 3.6 (Contractor ceases to be an Admission Body) inclusive without the consent in writing of the LFC (not to be unreasonably withheld or delayed);
        4. it shall not (and shall procure that any relevant Sub-Contractor shall not) take or omit to take any action which would materially affect the benefits under the LGPS or under the Contractor Scheme of any Eligible Employees who are or will be employed wholly or partially in connection with the Services without the prior written agreement of the LFC (not to be unreasonably withheld or delayed) provided that the Contractor and/or such Sub-Contractor will be so entitled without the requirement of consent to give effect to any pre-existing contractual obligations to any Eligible Employees; and
        5. it shall (and shall procure that any relevant Sub-Contractor shall) offer any of its Eligible Employees who cease to be engaged in the provision of the Services and thereby cease to be eligible for membership of the LGPS, membership of the Contractor Scheme immediately after ceasing to be so engaged (unless such an Eligible Employee has voluntarily agreed to the loss of his LGPS membership as part of the change).
  2. **Enforceability by the Eligible Employees**

This paragraph 2 of Schedule 9 (Pensions for Eligible Employees) shall be enforceable by the Eligible Employees.

* 1. **Claims from Eligible Employees or Trade Unions**
     1. The Contractor hereby indemnifies the LFC and/or any Future Contractor and, in each case, their sub-contractors from and against all Direct Losses suffered or incurred by it or them which arise from claims by Eligible Employees of the Contractor and/or of any Sub-Contractor or by any trade unions, elected employee representatives or staff associations in respect of all or any such Eligible Employees which losses:
        1. relate to pension rights in respect of periods of employment on and after the Relevant Transfer Date until the date of termination or expiry of this Agreement; or
        2. arise out of the failure of the Contractor and/or any relevant Sub-Contractor to comply with the provisions of this paragraph 3 before the date of termination or expiry of this Agreement.
  2. **Liability for Costs**

The costs of the LFC necessarily and reasonably incurred in connection with the Admission Agreement and/or of obtaining the necessary certification of comparability in accordance with paragraph 3.7 (Contractor Scheme) shall be borne by the Contractor.

* 1. **Transfer to another Employer**
     1. Save on expiry or termination of this Agreement, if the employment of any Eligible Employee transfers to another employer (by way of a transfer under TUPE) the Contractor shall (and shall procure that any relevant Sub-Contractor shall):
        1. consult with and inform those Eligible Employees of the pension provisions relating to that transfer; and
        2. procure that the employer to which the Eligible Employees are transferred (the “New Employer”) complies with the provisions of this paragraph 3 provided that references to the “Sub-Contractor” will become references to the New Employer, references to “Relevant Transfer Date” will become references to the date of the transfer to the New Employer and references to “Eligible Employees” will become references to the Eligible Employees so transferred to the New Employer.
  2. **Pension Issues on Expiry or Termination**
     1. The Contractor shall (and shall procure that each relevant Sub-Contractor shall):
        1. maintain such documents and information as will be reasonably required to manage the pension rights of and aspects of any outward transfer of any person engaged or employed by the Contractor or any Sub-Contractor in the provision of the Services on the expiry or termination of this Agreement (including without limitation identification of the Eligible Employees);
        2. promptly provide to the LFC such documents and information mentioned in paragraph 3.13.1.1 which the LFC may reasonably request in advance of the expiry or termination of this Agreement; and
        3. fully co-operate (and procure that the trustees of the Contractor’s Scheme shall fully co-operate) with the reasonable requests of the LFC relating to any administrative tasks necessary to deal with the pension rights of and aspects of any onward transfer of any person engaged or employed by the Contractor or any Sub-Contractor in the provision of the Services on the expiry or termination of this Agreement.

**ANNEX 1: RE-TENDERING INFORMATION (NOT USED)**

**ANNEX 2: the transferring employees (NOT USED)**

**ANNEX 3: the proposed workforce (NOT USED)**

1. Performance MONITORING SYSTEM

PERFORMANCE MEASURES AND DEFAULT SUMS

1. **Introduction**

* 1. This Schedule sets out the criteria to be used to evaluate the performance of the Contractor in the provision of the Services through the Performance Standards and the provisions for calculation of the value of the Accrued Performance Points.

2. **Definitions**

**"Accrued Performance Points"** means the aggregate number of Performance Points which accrue in any one Monitoring Period.

**"KPI"** means the Key Performance Indicators set out in this Schedule.

**"Monitoring Period"** means a calendar month.

**"Performance Points"** means points awarded against the Contractor as a result of its failure to provide the Services in accordance with the Performance Standards all as set out in this Schedule.

**"Performance Standards"** means compliance with the standards set out in this Schedule.

**"Performance Point Value"** shall be 25.

3. **Performance Standards and Charges**

3.1 Introduction

This Clause sets out the criteria to be used to evaluate the performance of the Contractor in the provision of the Services through the Performance Standards and the provisions for calculation of the value of the Accrued Performance Points.

3.2Performance Points System

3.2.1The standard of performance by the Contractor of the Services will be measured by reference to the Performance Standards.

3.2.2 Performance Points shall be awarded against the Contractor for each failure to meet a Performance Standard. The Accrued Performance Points will be used to determine the amount the LFC will be entitled to deduct from the Charges.

3.2.3 The award of Performance Points for failure to meet Performance Standards will be made in accordance with the criteria set out in Paragraph 4 below.

3.2.4 The LFC shall monitor the Contractor’s compliance with the Performance Standards during each Monitoring Period and shall inform the Contractor within fourteen (14) days of the end of each Monitoring Period of the number of points awarded for that Monitoring Period and the amount the LFC is entitled to deduct from the Charges.

3.2.5 The maximum amount for which the Contractor will be liable for any one Monitoring Period for deduction of Performance Points under this Paragraph will not exceed the value equal to the amount of 30% of the total Charges due to the Contractor for the same Monitoring Period.

* + 1. The Contractor’s continued performance against the Performance Standards may affect the continuation of the Agreement. If the Contractor attains the maximum deduction in any one Monitoring Period of 30% from the Charges set out in Paragraph 3.2.5 above then this shall constitute a material breach of this Agreement.

1. **Key Performance Indicators**

For the criteria to be used to determine performance via a set of Key Performance Indicators (KPIs):

Please refer to 'Appendix C – Service Levels, Service Credits and KPIs' within the ITT document, and/or review the accompanying attachment below;



1. DEED OF GUARANTEE

**THIS DEED** is made the day of 2025

**BETWEEN:-**

1. [Insert name] (Company Number [ ]) of [insert registered address] (the “Guarantor").
2. **LONDON FIRE COMMISSIONER** of 169 Union Street, London, SE1 0LL (the “LFC").

**WHEREAS:-**

1. The LFC and [insert name] (the “Contractor") have entered into a binding agreement dated [insert date] (the “Agreement") whereby the Contractor will provide the Services set out in the Agreement and upon the terms and conditions contained in the documentation issued by the LFC on [insert date].
2. The Contractor is a subsidiary company of the Guarantor.
3. The Guarantor by an undertaking dated [insert date] has agreed to enter into a Deed of Guarantee and Indemnity on the following terms and conditions:-

**NOW IT IS HEREBY AGREED AS FOLLOWS**:

IN CONSIDERATION of the sum of TEN POUNDS (£10.00) (receipt whereby is hereby acknowledged by the Guarantor) and in consideration of the LFC's entering into the Agreement:

1. The Guarantor hereby unconditionally and irrevocably guarantees to the LFC that if any sums are due and payable to the LFC by the Contractor pursuant to the terms of the Agreement and there is any default in any payment of such sum the Guarantor shall forthwith on first demand by the LFC unconditionally pay to the LFC in full the monies which are due and payable to it and unpaid by the Contractor together with all costs and expenses which the LFC may incur in enforcing this Guarantee.
2. The Guarantor hereby unconditionally and irrevocably undertakes fully and promptly to indemnify the LFC against all damages, costs, claims, losses, demands, liabilities and expenses which may be suffered or incurred by the LFC by reason of any default on the part of the Contractor in performing and observing the terms and conditions of the Agreement and in particular such costs and expenses as may be incurred as a result of a third party providing all or any part of the Services (as defined in the Agreement) by reason of a failure by the Contractor to provide such Services in accordance with the terms of the Agreement.
3. It is hereby agreed that the LFC shall at all times be entitled (but not obliged) to treat the Guarantor as sole principal debtor in regard to the liability of the Guarantor PROVIDED THAT the Guarantor shall not be discharged or released from this guarantee and indemnity nor shall its liability under this guarantee and indemnity be affected or impaired by any agreement, conduct or forbearance between or afforded to the Contractor by the LFC or by any alterations in the obligations imposed on the Contractor by the Agreement or by any variations agreed to the Agreement whether or not such matters are with or without the consent of the Guarantor. The LFC shall not be obliged to require payment from the Contractor before enforcing the terms of this guarantee and indemnity and the Guarantor shall be treated in all respects as being jointly and severally liable with the Contractor for all liabilities, obligations and undertakings of the Contractor as provided in the Agreement.
4. This guarantee and indemnity shall remain in full force and effect until all monies and liabilities now or hereafter due and owing or incurred by the Contractor to the LFC have been satisfied in full and this guarantee, undertaking, indemnity, security or other obligation given or owing to the LFC in respect of sums due or liabilities arising pursuant to the terms of the Agreement.
5. If any monies shall become payable under or in respect of this guarantee and indemnity the Guarantor shall not, so long as any monies due and payable by the Contractor to the LFC under the terms of the Agreement remain unpaid:
6. in respect of the amounts paid by the Guarantor under this guarantee and indemnity seek to enforce repayment by subrogation or otherwise;
7. in the event of the insolvency, winding up, liquidation or dissolution of the Contractor prove in competition with the LFC in respect of any monies owing to the Guarantor by the Contractor on any account whatsoever but will give to the LFC the benefit of any such proof and of all monies to be so received in respect thereof.
8. All demands made by the LFC under this guarantee and indemnity shall be sent to the Guarantor at the address set out above or such other address as may be notified by the Guarantor to the LFC. Such demand shall be deemed to have been made and received by the Guarantor:
9. if delivered by hand, at the time of delivery; and
10. if sent by first class mail on the next business day after the date of posting.

For the purpose of this clause, "business day" means any day other than a Saturday, Sunday or a day which is a public holiday in place both of despatch and address of the notice.

1. No failure to exercise and no delay in exercising on the part of the LFC any right, power or privilege hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or privilege preclude any other or further exercise thereof, or the exercise of any right, power or privilege. The rights and remedies provided herein are cumulative and not exclusive of any right or remedies provided by law.
2. The Guarantor hereby warrants and represents to the LFC that it has full power and authority to enter into and perform its obligations under this guarantee and indemnity.
3. This guarantee and indemnity shall be binding upon the Guarantor's successors in title.
4. This guarantee and indemnity shall remain in full force and effect notwithstanding any change in the constitution of the Guarantor, the Contractor or the LFC.
5. The parties to this guarantee and indemnity do not intend that any of its terms will be enforceable, by virtue of The Contracts (Rights of Third Parties) Act 1999 or otherwise, by any person not a party to it.
6. This guarantee and indemnity shall be governed by and construed in all respects in accordance with English Law and the parties agree to submit to the exclusive jurisdiction of the English Courts as regards any claim or matter arising in relation to this guarantee and indemnity.

**THIS guarantee and indemnity** is executed as a deed and delivered on the date stated at the beginning of this Deed

SIGNED as a deed by )

[**NAME OF GUARANTOR**] by )

two directors or a director and )

the company secretary )

………………………………………………………

Director

………………………………………………………

Director/Company Secretary

**LONDON FIRE COMMISSIONER** )

was hereunto affixed in the )

presence of )

…………………………………………

1. PRESS AND PR PROTOCOL

**JOINT PROTOCOL FOR DEALING WITH ENQUIRIES FROM THE MEDIA AND THE PUBLIC**

1. Purpose of the protocol
   1. To record the arrangements agreed between the London Fire Commissioner and the Contractor for dealing with enquiries from the media and the public.
2. The LFC'S organisation arrangements
   1. The LFC's Press Office has a complement of seven full-time staff and is managed by the Head of Communications.
   2. The Press Office is generally staffed from 8.30 am until 5.30 pm Monday to Friday inclusive. Telephone Nos. 020-8536-5922. When it is not staffed the telephones in the Press Office are diverted to Brigade Control which can deal with basic media enquiries or, where necessary, page the Duty Press Officer.
3. The contractor's organisational arrangements
   1. Names and contact arrangements for these staff are set out in Appendix A to this Protocol. The Contractor will advise the LFC of any changes to Appendix A within five (5) working days of the changes being affected.
4. LFC arrangements for dealing with enquiries from the media and publicity
   1. The LFC (normally via the Press Office) will handle all enquiries from the media or the public relating to the LFC's Service.
   2. So far as matters directly relating to the Service provided by the Contractor and matters relating directly to Service services are concerned, the Press Office will:

[a] without contacting the Contractor, provide factual information to the media and the public based on information provided by the Contractor

[b] issue a holding statement in response to enquiries and agree with the Contractor the text of any oral or written material to be issued to the media or the public

[c] advise the Contractor contacts of any proposed LFC public relations events which could reasonably be expected to involve matters relating to the performance of the Service by the Contractor or the contractual arrangements with the LFC and agree any action to be taken by the Parties

[d] deal expeditiously with and not unreasonably withhold approval to any material referred to in 5.1 [a] below.

1. The Contractor's arrangements for dealing with enquiries from the media and public
   1. So far as matters relating to the Service provided by the Contractor are concerned, the Contractor will at its own expense:

[a] provide factual information to the LFC for issue to the media and the public and update this information as required.

[b] notify one of the LFC contacts set out in Appendix A at the earliest possible opportunity, by phone, email or fax of any enquiry from the media or the public relating to the Service, performance of the Service by the Contractor, or the Contractual arrangements with the Contractor.

[c] contact the LFC's Press Office by phone, email or fax with requests from the media to photograph or film at any LFC property for approval by the Head of Communications and agreement as to the arrangements to be made and the requests will not be agreed until such approval is given.

[d] advise the Head of Communications of any proposed public relations events which could reasonably be expected to involve matters relating to the Service, performance of the Service by the Contractor or the contractual arrangements with the LFC and agree any action to be taken by the Parties and the event will not proceed until such agreement is reached

[e] so far as 5.1[c] above is concerned, where approval is given for photographing or filming on LFC property, ensure that those attending from or on behalf of the Contractor comply with all instructions issued by any LFC Employee, Officer, or Member of the LFC and sign an indemnity in the form provided by the LFC (if requested)

[f] ensure that all of its staff and sub-contractors or other agents are apprised of the content of thisprotocol so far as relevant to the performance of the contract duties of the Contractor.

Signed ………………………………….. For the LFC

Signed ………………………………….. For the Contractor

**Appendix A**

**London Fire Commissioner and [insert name]**

**JOINT PROTOCOL FOR DEALING WITH MEDIA ENQUIRIES**

The Contractor's Contacts

Monday to Friday: 0800 to 1700

Core Team:

Name Office No Mobile No

The Contractor's marketing contact names:

E-mail addresses are:

1. EQUALITIES PROTOCOL
2. The Contractor must have a written Equal Opportunities Policy, which must be produced to the LFC upon request.
3. The Contractor must, in accordance with its equal opportunities policy, seek to eliminate all unlawful discrimination in relation to sex, race, disability, religion and sexual orientation in its employment and management practices and in the performance of its obligations under the Agreement.
4. The Contractor must work with the LFC as reasonably required throughout the term of the Agreement to promote equality in accordance with the Equality Clause in the Agreement, and to ensure that the delivery of the Agreement is achieved without unlawful discrimination on the grounds of sex, race, disability, sexual orientation, or religion.
5. The Contractor must work with the LFC as reasonably required throughout the term of the Agreement to enable the LFC to fulfil its duties under the Equality Act 2010 and section 404 of the Greater London Authority Act 1999 (promoting equality of opportunity for all persons, irrespective of their race, sex, disability, age, sexual orientation or religion; eliminating unlawful discrimination; and promoting good relations between persons of different racial groups, religious beliefs, and sexual orientation).
6. In the event that the Contractor enters into any contract with a subcontractor in relation to the Agreement, the Contractor shall impose obligations on such subcontractor to comply with the duties set out at paragraphs 1 to 4 above as if the subcontractor were in the position of the Contractor, and must take reasonable steps to ensure that its subcontractors, employees, and workers, engaged by it on work related to the Agreement, do not discriminate unlawfully against any person on any grounds
7. The Contractor must at its expense provide such evidence to the LFC upon request, as the LFC may require for the purpose of determining whether the Contractor has complied with paragraphs 1 to 5 above. In particular:
   1. The Contractor must provide any evidence requested within such timescale as the LFC may reasonably require;
   2. The Contractor must attend such meetings as the LFC may reasonably require, for the purpose of determining whether it has complied with paragraphs 1 to 5 above;
   3. The Contractor must co-operate fully with the LFC in any way required during the course of the LFC’s investigation of the Contractor’s compliance with its duties.
8. The Contractor must inform the LFC forthwith in writing, should it become aware of any proceedings brought against it in connection with the Agreement by any person for breach of the Equality Act 2010.
9. The LFC reserves the right to amend this Protocol from time to time as reasonably required. The LFC will inform the Contractor of amendments to the Protocol. The Contractor is required to comply with the terms of the Protocol as amended from time to time.

1. SERVICE CONTINUITY

**[To be inserted from Contractor’s tender response]**

1. CONTRACT MANAGEMENT AND MANAGEMENT INFORMATION SYSTEM

**1. Partnering Working**

1.1 The LFC and the Contractor acknowledge the benefits accruing to each of them if this Agreement is performed in a spirit of co-operation and partnering. Accordingly, the LFC and the Contractor shall each seek to work closely together in a spirit of trust and co-operation to facilitate effective performance by the Contractor of the provision of the Services.

**2. Co-operation and Liaison**

2.1 The Contractor acknowledges that the successful provision of the Services requires the Contractor to co-operate and liaise with other partners and stakeholders.

2.2 The Contractor shall be under a general obligation to facilitate the development of the Services by co-operating with the LFC, its partners and stakeholders, including (without limitation):

(a) attending liaison meetings where appropriate; and

(b) providing to other partners and stakeholders relevant information regarding the Services in accordance with the provisions of this Agreement.

**3. Contract Management**

3.1 The Contractor shall appoint a Contractor Representative who shall be responsible for the day-to-day delivery of the Services. The Contractor shall ensure that the Contractor Representative has the authority to take all day-to-day operational decisions in relation to the provision of the Services. The Contractor Representative shall not have the authority to make or agree amendments to this Agreement.

3.2 The Contractor shall appoint a Project Manager who shall be responsible for the overall delivery of the Services to the LFC. The Contractor shall ensure that the Project Manager has the authority to take all strategic decisions in relation to this Agreement. The Project Manager shall have the authority to make or agree amendments to this Agreement; such amendments are to be made in accordance with the Change Control Procedure (Schedule 7).

3.3 The Contractor shall not remove or replace its Contractor Representative or Project Manager unless:

(a) requested to do so by the LFC;

(b) the Contractor Representative or Project Manager (as relevant) resigns or is dismissed; or

(c) the LFC agrees to such removal and replacement (such agreement shall not to be unreasonably withheld or delayed).

3.4 Any replacement for the Contractor Representative or Project Manager (as relevant) shall require the prior written consent of the LFC (such consent not to be unreasonably withheld or delayed).

3.5 The LFC shall appoint an LFC Representative who shall have overall responsibility for managing all issues arising out of the provision of the Service or otherwise arising out of this Agreement. The identity of the LFC Representative and their replacement from time to time will be notified to the Contractor.

**4. Contract Management Manual**

4.1 During the Implementation Period, the LFC shall produce a draft contract management manual for review. The LFC shall take account of all reasonable comments of the Contractor and no later than fifteen (15) Working Days prior to the Service Commencement Date shall issue the final version of the contract management manual to the Contractor. The contract management manual shall be consistent with the Agreement and specifically this Schedule. It shall include the format and frequency for contract management meetings (and agendas therefore), reporting and record keeping and details of those parties with which the Contractor must interact.

4.2 The Parties shall comply with the contract management manual to ensure effective contract management.

**5. Joint Performance Team and Project Liaison Board**

5.1 The LFC Representative and the Contractor Representative shall meet not less than once per month unless otherwise agreed by the LFC. The venue for the meeting shall be that specified by the LFC. The Contractor shall be responsible for minuting these meetings and circulating the minutes within five (5) days.

5.2 Either Party may request more frequent meetings with a view to:

(a) ensuring that the other Party is fully briefed on relevant information material to this Agreement and to the provision of the Services;

(b) ensuring the successful and efficient operation of this Agreement and provision of the Services;

(c) considering operational issues with a view to improving the provision of the Services;

(d) settling at an early stage any potential areas of dispute without the need of a formal referral to Clause 46 (Dispute Resolution); and

(e) escalating areas of dispute within the Dispute Resolution procedure.

5.3 The LFC also intends to implement a project liaison board as a forum for communication and discussion between the parties at a senior level of strategic and other fundamental issues relating to the provision of the Service and this Agreement generally. The project liaison board shall meet at the LFC’s premises quarterly (unless otherwise agreed). The Contractor’s Project Manager will be required to attend meetings of the project board. In the event that the Contractor’s Project Manager is unavailable, the Contractor may nominate, with the consent of the LFC, an alternative appropriate person (who shall be a relevant senior manager of the Contractor) to attend meetings of the project liaison board.

**6. Risk and Issues Management**

6.1 The Contractor shall have sole responsibility for the compilation and updating of a contract risk register ("Risk Register"). The Risk Register will be reviewed by the Contractor on a regular basis and will identify how all risks will be managed, resolved or mitigated throughout the Term of the Agreement. The Risk Register will be a standard service meeting agenda item.

6.2 The Contractor shall demonstrate the ability to co-ordinate all aspects of risk management including close liaison with the LFC, sub-contractors and other authorised parties.

**7. Customer Satisfaction and Complaints Management**

7.1 The Contractor shall canvas, on an on-going basis, the Service users and sub-contractors to determine level of satisfaction with the Services and shall report the findings to the LFC Representative.

7.2 The Contractor shall conduct the formal user satisfaction survey in accordance with the Agreement.

**8. Monitoring and Reporting**

8.1 The Contractor shall provide the monthly reports and such other reasonable ad hoc written reports as reasonably requested by the LFC Representative. All monthly reports shall be presented in a graphical and numerical format, approved in advance, within ten (10) Working Days of the end of each month.

8.2 All reports must be generated from within the appropriate systems used by the Contractor and must contain the required information in relation to performance across all Services and allow comparative analysis.

8.3 The Contractor shall provide reports on health and safety incidents in providing the Services and will immediately notify the LFC Representative. Written reports will be provided to the LFC Representative within five (5) Working Days of the first incident being reported. A consolidated Health and Safety report will be produced on a monthly and annual basis as stated in the management information requirements. Health and safety will be a standard agenda item at the service meetings.

8.4 The processes for the authorisation, pre-authorisation or deemed authorisation of work not covered by the Charges shall be set out in the contract management manual.

**9. Management Information (MI) Requirements**

9.1 The Contractor shall provide the LFC and other organisations (which have been approved in advance) with regular management information, written information and/or statistics in relation to the Services on a pre-agreed basis and may also be requested to provide additional such information on an ad-hoc basis.

9.2 The Contractor will provide the LFC with the monthly reports within ten (10) Working Days of each month end.

**10. Reports**

10.1 The monthly reports will be specified in the contract management manual but shall consist of some or all of the reports set out below or reports that are similar (whether by reference to base date or to date reported).

|  |  |  |
| --- | --- | --- |
|  | **Title** | **Description of Information Required** |
| 1. | Staff issues – by delivery period | Availability of Service on a 24-hour, 21 day, 28 day and 35 day rotas. |
| 2. | Staff Issues – by experience | Skills profiles of staff, broken down into Contractor Personnel, supervisor and driver, for each availability point. |
| 3. | Staff Issues – by responsibilities | Availability of Contractor Representative and Project Manager on a 24-hour, 21 day, 28 day, and 35 day rotas. |
| 7. | Training issues | Availability of Services training records, detailing assessments made, current training days achieved and still to be undertaken, and refresher training to follow up. |
| 8. | Information issues | Detailed list of all complaints and compliments, complete with remediation activities and timescales. |
| 9. | Exception reporting | Where availability of the Liaison Officer or PPE (where applicable) fall below agreed minimum levels. |
| 10. | Service Statement Report | Detailed information in respect of the previous quarter’s performance in respect of each KPI, identifying any failures to meet a particular KPI during the relevant month. |
| 11. | Explanatory Statement | A brief statement included (where relevant pursuant to **Schedule 10**) within the Monthly Service Statement Report explaining the reasons for failing to hit a KPI and the steps taken or to be taken to mitigate the risk of future failure. |

1. CONTRACTOR PERSONNEL
2. Contractor Personnel
   1. Nothing in this Agreement shall constitute or be deemed to constitute any of the Contractor Personnel an employee, worker, officer or agent of the LFC for any purpose whatsoever. The Contractor shall be solely responsible for all matters relating to the employment or engagement of the Contractor Personnel including compliance with all applicable laws. The Contractor will be responsible for all the income tax, national insurance contributions and/or social security charges or similar statutory payments in relation to all Contractor Personnel and will ensure that they are deducted and/or paid to the relevant authorities and/or Contractor Personnel (as the case may be).
   2. The Contractor shall indemnify the LFC against all and any costs, expenses, liabilities, damages and losses arising out of any claim, demand, action or proceeding made or brought by any of the Contractor Personnel which arises as a result of his asserting that he is or was an employee or worker of the LFC or which arises or is alleged to arise out of any act or omission of the Contractor (or any Sub-Contractor). The Contractor shall further indemnify the LFC for any liability for income tax, national insurance contributions and/or social security charges or similar statutory payments (or penalties or interest thereon) which may be found due from the LFC in respect of any Contractor Personnel.
   3. The Contractor shall at all relevant times ensure that there is an adequate number of Contractor Personnel to provide the Services and that the Contractor Personnel shall:

(a) comply with such policies and security requirements (including without limitation all regulations and security requirements of the LFC) as are notified to the Contractor from time to time, provided that if such policies are changed after the Commencement Date and any new requirements in this regard materially affect the cost of the delivery of the Services such change will constitute a Change and shall be subject to the Change Control Procedure (Schedule 7);

(b) have satisfied such background and security checks as detailed in the Specification; and

(c) carry out their duties in relation to the provision of Services in a professional manner and in accordance with the provisions of this Agreement.

* 1. The Contractor shall maintain up-to-date and adequate personnel records in relation to the Contractor Personnel and shall provide to the LFC such information or documents as the LFC may request from time-to-time to demonstrate that the Contractor Personnel satisfy the provisions in the Specification.
  2. The LFC reserves the right to require the Contractor to remove from the provision of the Services any Contractor Personnel if the LFC considers that it is not in the interests of the LFC for such Contractor Personnel to be engaged in the provision of the Services (including without limitation if the LFC is dissatisfied with the conduct or performance of such Contractor Personnel or if the LFC believes such member of the Contractor Personnel has committed any act of fraud or dishonesty). The Contractor will promptly comply with any requirement by the LFC to remove such Contractor Personnel from the provision of the Services and, where appropriate, ensure that such person is replaced promptly with another person with the appropriate qualifications, training and expertise (at no additional cost to the LFC).
  3. The Contractor shall use all reasonable endeavours to ensure continuity of personnel amongst the Contractor Personnel.

1. SUB-CONTRACTS AND SUB-CONTRACTORS
2. PURPOSE
   1. This Schedule contains provisions relating to the engagement and management of Sub-Contractors.
3. COMPLIANCE WITH POLICIES AND PROCEDURES
   1. The Contractor shall ensure that all Sub-Contractors comply with:
      1. the policies, standards, regulations and requirements referred to in Schedule 6 (Policies and Standards) as they apply to the Contractor; and
      2. the LFC’s rules, guidelines, policies and procedures (including IT policies) that are relevant to the provision of the Service or the Sub-Contractor's access to or use of Confidential Information, LFC’s Data or resources or facilities provided by the LFC from time to time.
   2. The Contractor shall ensure that when seeking to appoint or awarding an Agreement to a Sub-Contractor it does not discriminate on the grounds of:
      1. nationality; or
      2. that the goods to be supplied under the Agreement originate from another state.
4. IDENTITY OF SUB-CONTRACTORS
   1. Notwithstanding the criteria for qualification as a Material Sub-Contractor, the Contractor shall not enter into any arrangement with a Sub-Contractor which is likely, in the opinion of the LFC:
      1. to bring the LFC into disrepute or otherwise to affect adversely the reputation or commercial standing of the LFC, the Crown or any Government Authority; or
      2. to be a threat to the health, safety and/or security of any of the bodies referred to in Paragraph 3.1.1 above or any of their personnel or to the public.
5. PERFORMANCE OF SUB-CONTRACTORS
   1. If the LFC has reasonable concerns about the performance of any Sub-Contractor:
      1. the LFC shall notify the Contractor of such concerns;
      2. the Contractor shall take appropriate action to address the LFC's concerns within ten (10) Working Days from and including the date of notification by the LFC of its concerns (or such other timeframe as the LFC may specify); and
      3. if the LFC is not satisfied with the action taken by the Contractor, the LFC may require replacement of the Sub-Contractor.
   2. If the LFC requires replacement of the Sub-Contractor under Paragraph 4.1.3, the Contractor shall (in accordance with a plan and reasonable timetable agreed between the Parties) cease using such Sub-Contractor to provide the relevant goods and/or services and make alternative arrangements to ensure that the Service continue to be provided (other than by such Sub-Contractor) without any disruption or interruption to the LFC.
6. TERMS OF SUB-CONTRACTS
   1. The Contractor shall procure that its arrangements with Sub-Contractors are appropriately documented and contain the following terms:
      1. rights enforceable under the Contracts (Rights of Third Parties) Act 1999 in favour of the LFC, a new contractor or a third party of the LFC’s choice to take an assignment or novation of the Sub-Contract (or part of the Sub-Contract where relevant), during the relevant exit period;
      2. commercial terms which allow for the smooth transfer of Service to the LFC or a new contractor during the relevant exit period so as to facilitate the Contractor's and its Sub-Contractors' compliance with the obligations in the Exit Management Plan;
      3. payment terms that will not unfairly prejudice the LFC after expiry or termination (for example, by back-loading payment terms);
      4. appropriate obligations in respect of Confidential Information, the protection of the LFC’s data and security, policies, standards and regulations;
      5. no prohibition or restriction on the Sub-Contractor entering into any Agreement directly with the LFC; and
      6. an indemnity in favour of the LFC in respect of any claim or demand by any employee, worker or agent of the Sub-Contractor that they have an employment relationship with the LFC.
7. MATERIAL SUB-CONTRACTORS
   1. An existing Sub-Contractor who, at the time that it entered into an agreement with the Contractor during the Term did not qualify as a Material Sub-Contractor shall be treated as such when the value attributable to its obligations under such Sub-Contract (or related Sub-Contracts) with the Contractor is in excess of £50,000 per annum (subject to indexation) or its obligations include the processing of personal data or whose services would be required in the event of recovery Service.
   2. In relation to Material Sub-Contractors, the Contractor shall notify the LFC of any change affecting a Material Sub-Contractor which may have a material impact on the provision of the Service, together with all reasonable information to enable the LFC to consider the likely impact of the change, and the Parties shall discuss and seek to agree ways in which any adverse impact may be minimised.
   3. The list of approved Material Sub-Contractors is set out in Appendix A to this Schedule 17.
   4. The Contractor shall maintain and, at the commencement of the relevant exit period, make available to the LFC on request and at no cost, full and accurate copies of the terms of all Sub-Contracts separately entered into with Sub-Contractors.

**SCHEDULE 17 Appendix A**

**Sub-Contractors**

**The approved Material Sub-Contractors are:**

**[ ]; and**

**[ ]**

1. Table to be completed with the assistance of the guidance in italics. All italics in square brackets should be deleted before the draft contract is released for tender. If you are uncertain about the data relationship, please seek legal advice. [↑](#footnote-ref-2)