**DATE**

**(1) Norfolk County Council**

**and**

**(2) to be completed at award**

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| **CONTRACT FOR THE PROVISION OF CONSULTANCY SERVICES** |

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**THIS CONTRACT IS DATED \*\*\*Agreement\_date\*\*\***

**PARTIES:**

(1) **NORFOLK COUNTY COUNCIL** of County Hall, Martineau Lane, Norwich, NR1 2DH (the"**Council**"); and

(2) **to be completed at award** a company registered under to be completed at award number to be completed at award and having its registered office at to be completed at award (the "**Consultant**").

**RECITALS:**

1. The Consultant is in business as a to be completed at award
2. The Council, in view of the Consultant's relevant skills, experience and knowledge wishes to engage the Consultant to provide certain Consultancy Services to the Council.
3. The Consultant has agreed to provide such Consultancy Services to the Council on and subject to the terms and conditions set out in this Contract.
4. Interpretation
   1. In this Contract the following words shall mean:

|  |  |
| --- | --- |
| **"Associated Company"** | means in relation to a company any holding company, subsidiary or fellow holding company of any such subsidiary |
| **"Charges"** | means the charges payable by the Council in consideration of the Consultancy Services as set out in Schedule 2 |
| **“Confidential Information”** | means all information which has been designated as confidential by either party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including but not limited to information which relates to the business, affairs, properties, assets, trading practices, services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, Councils and suppliers of either party and commercially sensitive information which may be regarded as the confidential information of the disclosing party. |
| **“Consultancy Services”** | means all of the activities to be undertaken by or to be performed by the Consultant as described in Schedule 1 as may be amended from time to time |
| **"Consultant Personnel"** | all employees, agents, consultants and Consultants of the Consultant and/or of any Sub-Consultant; |
| **“Consultant’s Contract Manager”** | means to be completed at award, to be completed at award or such other person as the Consultant may notify to the Council in writing from time to time |
| **“Contract Manager”** | means \*\*\*Contract\_ManagerName\_txt\*\*\*, \*\*\*Contract\_ManagerFullAddress\_txt\*\*\* or such other person as the Council may notify to the Consultant in writing from time to time |
| **"Council's Intellectual Property Rights"** | means all Intellectual Property Rights comprised in or necessary for or arising from the performance of the Consultancy Services |
| **“Data Loss Event”** | meansany event that results, or may result, in unauthorised access to Personal Data held by the Consultant under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach. |
| **“Data Protection Impact Assessment”** | means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data |
| **“Data Protection Legislation”** | means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 (subject to Royal Assent) to the extent that it relates to processing of personal data and privacy; (iiii) all applicable Law about the processing of personal data and privacy |
| **“Data Subject Access Request”** | means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data |
| **“DPA 2018”** | meansData Protection Act 2018 |
| **"Environmental Information Regulations"** | the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issues by the Information Commissioner or relevant Government Council in relation to such regulations |
| **"FOIA"** | the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government Council in relation to such legislation |
| **“GDPR”** | means the General Data Protection Regulation (Regulation (EU) 2016/679) |
| **"Information"** | has the meaning given under section 84 of the Freedom of Information Act 2000 |
| **"Intellectual Property Rights"** | means any copyright, rights in designs, database rights, domain names, trademarks, service marks, patents or any applications for any of the foregoing, know-how or similar rights or obligations (whether registerable or not) including Moral Rights as defined in Chapter IV of the Copyright, Designs and Patents Act 1988 |
| **“LED”** | Law Enforcement Directive (Directive (EU) 2016/680) |
| **“Protective Measures”** | means appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it |
| **“Protection Officer”** | has the meaning given in the GDPR. |
| **"Request for Information"** | a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations |
| **"Sub-Consultant"** | the third party with whom the Consultant enters into a Sub-contract or its servants or agents and any third party with whom that third party enters into a Sub-contract or its servants or agents |
| **“Sub-processor”** | means any third Party appointed to process Personal Data on behalf of the Consultant related to this Contract |
| **"Working Day"** | any day other than a Saturday, Sunday or public holiday in England and Wales. |

* 1. **Controller,** **Processor,** **Data Subject,** **Personal Data,** **Personal Data Breach,** **Data Protection Officer** shalltake the meaning given in the GDPR.
  2. References to “**Contract**” mean this contract (and include the Schedules). References to “**Clauses**” and “**Schedules**” mean clauses of and schedules to this Contract. The provisions of the Schedules shall be binding on the parties as if set out in full in this Contract.
  3. References in this Contract to statutory provisions include all prior and subsequent enactments, amendments and substitutions relating to that provision and to any regulations made under it.
  4. Reference to the singular include the plural and vice versa and references to any gender include both genders. References to a person include any individual, firm, unincorporated association or body corporate.

1. Commencement and Continuation
   1. The Consultant shall commence the Consultancy Services on 2 June 2025 and, subject to the rights of earlier termination set out in this Contract, shall complete the Consultancy Services on or before 31 May 2026.
2. Provision of Consultancy Services
   1. The Consultant is appointed to undertake the Consultancy Services. This Contract shall not prevent the Consultant from undertaking other consultancy or project management services provided that the undertaking of such services does not cause a breach of any provision of this Contract.
   2. The Consultant shall promptly and efficiently perform the Consultancy Services as and when required with all due care and skill as may be expected of a person or an organisation with the experience of the Consultant and in accordance with this Contract and in particular but not limited to the provisions set out in Schedule 1.
   3. The Consultant shall keep detailed and accurate records of all activities undertaken in relation to the provision of the Consultancy Services and shall provide the Council with reports at such intervals and in such form as the Contract Manager may from time to time require.
   4. The Consultant acknowledges the importance attached by the Council to equal opportunities. The Consultant shall ensure that in fulfilling its obligations under this Contract it and its officers, employees and agents will act fairly, avoid discrimination and promote equal opportunities.
   5. The Consultant warrants that in performing its duties under this Contract it will not, and its officers and/or employees will not, infringe the rights of, nor breach any of its or their obligations to any third party.
3. Charges and Terms of Payment
   1. In consideration of and subject to the satisfactory performance by the Consultant of the Consultancy Services, the Council shall pay the Consultant the Charges in accordance with the payment provisions of Schedule 2 provided that the Council has received full and accurate information and documentation as required by Schedule 2 to be submitted by the Consultant for work completed to the satisfaction of the Council.
4. Changes to the Council's Requirements
   1. The Council shall notify the Consultant of any material change to the Council's requirements under this Contract.
   2. The Consultant shall use all reasonable endeavours to accommodate any changes to the needs and requirements of the Council provided that it shall be entitled to payment for any additional costs incurred as a result of any such changes. The amount of such additional costs to be agreed between the parties in writing.
   3. If the parties are unable to agree such additional costs, the provisions of Clause 26 shall apply
5. Contract Management
   1. The Consultant shall and shall ensure that its officers, employees and agents shall comply with any reasonable guidance or guidelines issued by the Contract Manager from time to time in connection with the Consultancy Services.
   2. The Consultant shall address any enquiries about procedural, contractual or other matters in connection with the provision of the Consultancy Services in writing to the Contract Manager.
   3. The Council reserves the right to call contract meetings. These shall be attended by any relevant person the Council wishes to attend.
6. Premises and Equipment
   1. Unless otherwise agreed, any land or premises made available to the Consultant by the Council in connection with the provision of the Consultancy Services shall be made available to the Consultant free of charge and without exclusive possession and shall be used by the Consultant solely for the purpose of providing the Consultancy Services. The Consultant shall have the use of such land or premises as licensee and shall immediately vacate the same on the expiry or other termination of this Contract.
   2. The Consultant shall ensure that in providing the Consultancy Services it will and its officers, employees, agents and sub-Consultants will co-operate as far as may be reasonably necessary with the Council's employees. The Consultant shall further ensure that it and its sub-Consultants carry out their duties in such a way as to cause no unreasonable or unnecessary disruption to the routine and procedures of the Council, its employees, visitors or other consultants.
   3. The Consultant shall ensure that it and its officers, employees, agents and sub-Consultants will comply with all rules and regulations from time to time issued by the Council relating to the use and/or security of the Council's premises.
   4. For the purposes of this Contract, the following areas and facilities at the Council's premises will be provided free for use by the Consultant and its officers, employees, agents and sub-Consultants:-
      1. toilets;
      2. cooking facilities;
      3. heating;
      4. lighting;
      5. first aid; and
      6. reasonable telephone use (use to be restricted to internal calls or to the Consultant's premises or to the emergency services – private or non-Consultancy Services work related calls are not permitted).
   5. The Council shall be under no obligation to provide any premises or equipment to the Consultant other than those expressly referred to in this Contract.
   6. The Consultant shall provide its own equipment where necessary for the delivery of the Consultancy Services but for reasons of security and interoperability, only IT equipment owned by the Council may be used to access the Council's network.
   7. Where the Council in its sole discretion deems it necessary to provide the Consultant with laptop computers for the purposes of this Contract, any such computers shall at all times remain the property of the Council.
   8. The Consultant shall ensure the security of the laptop computer whilst in its possession, during the supply of the Services, in accordance with the Council’s reasonable security requirements as required from time to time.
   9. The Consultant shall be responsible for ensuring that its officers, employees, agents and sub-Consultants make proper use and take reasonable care of the Council's facilities and equipment provided pursuant to this Clause Premises and Equipment.
7. Intellectual Property Rights
   1. It is acknowledged and agreed between the parties that all existing or future Council's Intellectual Property Rights shall vest in the Council absolutely.
   2. Any Intellectual Property Rights of the Consultant which are in existence at the date of this Contract and which are comprised in or necessary for or arising from the performance of the Consultancy Services owned by the Consultant ("**Background Intellectual Property**") shall remain in the ownership of the Consultant but in consideration of the fees payable pursuant to this Contract, the Consultant hereby grants to the Council in respect of such Background Intellectual Property an irrevocable, non-exclusive, royalty-free, perpetual licence with rights to grant sub-licences.
   3. The Consultant agrees that at the request and cost of the Council it will and procure that its officers, employees and agents will at all times do all such reasonable acts and execute all such documents as may be reasonably necessary or desirable to ensure that the Council receives the full benefit of all of its rights under this Contract in respect of the Council's Intellectual Property Rights or to assist in the resolution of any question concerning the Intellectual Property Rights.
   4. The Consultant hereby waives any Moral Rights as defined at Chapter IV of the Copyright, Designs and Patents Act 1988.
   5. The Consultant warrants:
      1. that the Council's Intellectual Property Rights comprise the original work of and were created by or on behalf of the Consultant;
      2. that the Council's Intellectual Property Rights have not and will not be copied wholly or in part from any other work or material;
      3. that the use of or exercise by the Council of the Council's Intellectual Property Rights and the Background Intellectual Property will not infringe the rights of any third party;
      4. that the Consultant has not granted or assigned any rights of any nature in the Council's Intellectual Property Rights to any third party.
   6. The Consultant will indemnify the Council and keep the Council indemnified in full against all costs, expenses, damages and direct losses (including any interest, penalties, and reasonable legal and other professional fees) awarded against or incurred or paid by the Council as a result of or in connection with any claim made against the Council for actual or alleged infringement of a third party’s intellectual property arising out of, or in connection with, the supply or use of the deliverables, to the extent that the claim is attributable to the Consultants acts or omissions.
8. Warranty, LIMITS OF LIABILITY and Indemnity
   1. The Consultant warrants and represents to the Council that the obligations of the Consultant under this Contract will be performed by appropriately qualified and trained personnel to the standard or care and skill as set out in Clause 3.2. The Council will be relying upon the Consultant's skill, expertise and experience in the performance of the Consultancy Services and also upon the accuracy of all representations or statements made and the advice given by the Consultant in connection with the performance of the Consultancy Services and the accuracy of any documents conceived, originated, made or developed by the Consultant as part of this Contract. The Consultant warrants and represents that any goods supplied by the Consultant forming a part of the Consultancy Services will be of satisfactory quality and fit for their purpose and will be free from defects in design, material and workmanship.
   2. Without prejudice to any other remedy, if any part of the Consultancy Services are not performed in accordance with this Contract then the Council shall be entitled where appropriate to:
      1. require the Consultant promptly to re-perform or replace the relevant part of the Consultancy Services without additional charge to the Council; or
      2. assess the cost of remedying the failure (the "**Assessed Cost**”) and to deduct from any sums due to the Consultant the Assessed Cost for the period that such failure continues; or
      3. engage another person or organisation to carry out the Consultancy Services, in whole or in part, and all additional expenditure properly incurred by the Council in having such services carried out shall be recoverable by the Council from the Consultant.
   3. The Consultants aggregate liability (subject to clause 9.4 below) in respect of all defaults, claims, losses or damages under this contract whether arising from breach of this contract, the supply or failure to supply the services, misrepresentation, tort (including negligence), breach of statutory duty or otherwise shall in no event exceed 125% of the fees payable from the Council to the Consultant.
   4. Neither party limits its liability for claims arising out of death, personal injury, fraudulent misrepresentation, breach of third party intellectual property rights or breach of clause 18 (data protection). The indemnity under clause 8 and 18 is unlimited.
   5. Neither party will be liable to the other for indirect or consequential loss or damage
   6. All property of the Consultant or its officers, employees or agents whilst on the Council's premises shall be there at the risk of the Consultant and the Council shall accept no liability for any loss or damage howsoever occurring to it.
   7. The Consultant shall ensure that it has adequate insurance cover with an insurer of good repute to cover claims under this Contract or any other claims or demands which may be brought or made against it by any person suffering any injury damage or loss in connection with this Contract. The Consultant shall upon request produce to the Council, policy or policies of insurance, together with the receipt for the payment of the last premium in respect of each policy or produce documentary evidence that the policy or policies are properly maintained.
9. Termination
   1. This Contract may be terminated by either party giving to the other party at least 60 days’ notice in writing.
   2. Either party may terminate this Contract by notice in writing if the other party serves a notice on the other party that the other is in material breach of its obligations under this Contract and where such breach is capable of remedy requiring the breach to be remedied within 28 days of the notice. If the breach has not been remedied within 28 days, the party not in breach may terminate this Contract with immediate effect by notice in writing.
   3. In the event of a material breach of this Contract which is not capable of remedy by either party, the other party may terminate this Contract with immediate effect by notice in writing.
   4. A breach shall be deemed to be capable of remedy when it is capable of performance in all respects other than time for performance (save where time is of the essence).
   5. This Contract may be terminated by the Council with immediate effect by notice in writing if at any time:
      1. the Consultant passes a resolution that it be wound-up or that an application be made for an administration order or the Consultant applies to enter into a voluntary arrangement with its creditors; or
      2. a receiver, liquidator, administrator, supervisor or administrative receiver be appointed in respect of the Consultant's property, assets or any part thereof; or
      3. the court orders that the Consultant be wound-up or a receiver of all or any part of the Consultant's assets be appointed; or
      4. the Consultant is unable to pay its debts in accordance with Section 123 of the Insolvency Act 1986; or
      5. the Consultant is convicted (or being a company, any officers or representatives of the Consultant are convicted) of a criminal offence related to the business or professional conduct; or
      6. the Consultant commits (or being a company, any officers or representatives of the Consultant commit) an act of grave misconduct in the course of the business; or
      7. the Consultant fails (or being a company, any officers or representatives of the Consultant fail) to fulfil its obligations relating to the payment of Social Security contributions; or
      8. the Consultant fails (or being a company, any officers or representatives of the Consultant fail) to fulfil its obligations relating to payment of taxes; or
      9. the Consultant fails (or being a company, any officers or representatives of the Consultant fail) to disclose any serious misrepresentation in supplying information required by the Council in or pursuant to this Contract.
   6. Nothing in this Clause 10 shall affect the coming into, or continuance in force of any provision of this Contract which is expressly or by implication intended to come into force or continue in force upon termination of this Contract.
   7. The provisions of Clauses 8.2, 8.6, 9, 14.2, 17, 18 and 20 shall survive the termination or expiry of any part of this Contract.
10. Amendment and Variation

No amendment or variation to this Contract shall be effective unless it is in writing and signed by or on behalf of each of the parties hereto. The Consultant shall comply with any formal procedures for amending or varying contracts which the Council may have in place and notify to the Consultant from time to time.

1. Effect of Expiry or Termination
   1. On expiry or termination of this Contract however arising, the Consultant shall deliver to the Council (or as the Council directs) any documents and data (whether hard copy or electronic) incorporating the Council's Intellectual Property Rights or necessary for the Council to receive the full benefit of the licence or the Background Intellectual Property pursuant to Clause 8.2 and any property belonging to the Council which may be in the Consultant's possession under its control.
   2. On expiry or termination of this Contract however arising, the Consultant shall and shall procure that its officers, employees and agents shall, at no cost to the Council, promptly provide such assistance and comply with such timetable as the Council may reasonably require for the purpose of ensuring an orderly transfer of responsibility for provision of the Consultancy Services (or their equivalent). The Council shall be entitled to require the provision of such assistance both prior to and, for a reasonable period of time after the expiry or other termination of this Contract.
   3. The assistance required by the Council under the provisions of Clause 12.2 may include (without limitation) the delivery of documents and data in the possession or control of the Consultant which relate to this Contract, including the documents and data, if any, referred to in the Schedules..
   4. The Consultant shall and shall procure that its officers, employees and agents shall do such other reasonable acts or things as may be necessary or desirable to enable the Council to accomplish an orderly and prompt transfer of responsibility for the provision of the Consultancy Services (or their equivalent).
   5. The Consultant undertakes that it shall not knowingly do or omit to do anything which may adversely affect the ability of the Council to ensure an orderly transfer of responsibility for the provision of the Consultancy Services (or their equivalent) and undertakes to procure that its officers, employees and agents shall not knowingly do or omit to do anything which may adversely affect the ability of the Council to ensure an orderly transfer of responsibility for the provision of the Consultancy Services (or their equivalent).
   6. The Consultant shall not at any time after the expiry or other termination of this Contract represent itself as being a consultant of the Council or as being in any way connected with the Council.
2. Access and Information

The Consultant shall provide access at all reasonable times to the Council's internal auditors or the National Audit Office, and their employees, agents or representatives as they may reasonably request to inspect to such documents as the Council considers necessary in connection with this Contract. Such persons shall be entitled to take copies of or extracts from such accounts.

1. Conflict of Interest
   1. The Consultant acknowledges and agrees that (except as provided below) it will not act for any person or organisation that is or is reasonably likely to become a Consultant of the Council in relation to the project for which the Consultancy Services are provided, in any capacity. For the avoidance of doubt, this Clause 14 shall not prevent the Consultant from providing services to an existing client of the Consultant to whom the Consultant is currently providing services provided that, where the Consultant is providing such services to such a person who is an existing client:
      1. it shall not act for any such client in respect of any transactions between the Council and such client or its Associated Companies; and;
      2. the Consultant will ensure that any personnel acting for any such client that are not already acting for the Council do not have access to information held by the Consultant relating to the Council.
   2. This Clause shall survive the termination of the Consultant's appointment howsoever arising for a period of one year and shall continue in full force and effect.
2. Status of Consultant
   1. In carrying out its obligations under this Contract the Consultant agrees that it will be acting as principal and not as the agent of the Council.
   2. The Consultant warrants that it is a limited company duly registered in accordance with the law of England and Wales and that it shall provide services to the Council under the terms of this Contract as an independent Consultant. The Consultant further warrants that it is the employer of any individuals who carry out the Consultancy Services on its behalf and that nothing in this Contract shall be construed or have the effect of giving rise to a relationship of employer and employee between the Council or the Council on the one hand and the Consultant or any of its officers or employees on the other, whether for the duration of the Contract, for the duration of each period for which the Consultant or an officer or employee of the Consultant is providing services to the Council pursuant to this Contract or otherwise.
3. Tax Indemnity
   1. Where the Consultant is liable to be taxed in the UK in respect of consideration received under this contract, it shall at all times comply with the Income Tax (Earnings and Pensions) Act 2003 (ITEPA) and all other statutes and regulations relating to income tax in respect of that consideration.
   2. Where the Consultant is liable to National Insurance Contributions (NICs) in respect of consideration received under this contract, it shall at all times comply with the Social Security Contributions and Benefits Act 1992 (SSCBA) and all other statutes and regulations relating to NICs in respect of that consideration.
   3. The Council may, at any time during the term of this contract, ask the Consultant to provide information which demonstrates how the Consultant complies with Clauses 16.1 and 16.2 above or why those Clauses do not apply to it.
   4. A request under Clause 16.3 above may specify the information which the Consultant must provide and the period within which that information must be provided.
   5. The Council may terminate this contract if
      1. in the case of a request mentioned in Clause 16.3 above if the Consultant:
         1. fails to provide information in response to the request within a reasonable time, or
         2. provides information which is inadequate to demonstrate either how the Consultant complies with Clauses 16.1 and 16.2 above or why those Clauses do not apply to it;
      2. in the case of a request mentioned in Clause 16.4 above, the Consultant fails to provide the specified information within the specified period, or
      3. it receives information which demonstrates that, at any time when Clauses 16.1 and 16.2 apply, the Consultant is not complying with those Clauses.
   6. The Council may supply any information which it receives under Clause 16.3 to the Commissioners of Her Majesty’s Revenue and Customs for the purpose of the collection and management of revenue for which they are responsible.
   7. The Consultant warrants and represents to the Council that it is an independent Consultant and, as such, bears sole responsibility for the payment of tax and national insurance contributions which may be found due from it in relation to any payments or arrangements made under this Contract or in relation to any payments made by the Consultant to its officers or employees in connection with this Contract.
   8. The Consultant will account to the appropriate authorities for any income tax, national insurance, VAT and all other taxes, liabilities, charges and duties relating to any payments made to the Consultant under this Contract or in relation to any payments made by the Consultant to its officers or employees in connection with this Contract.
   9. The Consultant shall indemnify Council against any liability, assessment or claim made by the HM Revenue and Customs or any other relevant authority arising out of the performance by the parties of their obligations under this Contract (other than in respect of employer's secondary national insurance contributions) and any costs, expenses, penalty fine or interest incurred or payable by Council in connection with any such assessment or claim.
4. Confidentiality
   1. The Consultant acknowledges that any Confidential Information obtained from or relating to the Council, its servants or agents is the property of the Council.
   2. Each party hereby warrants that:
      1. any person employed or engaged by it (in connection with this Contract in the course of such employment or engagement) shall treat all Confidential Information belonging to the other party as confidential, safeguard it accordingly and only use such Confidential Information for the purposes of this Contract; and
      2. any person employed or engaged by it (in connection with this Contract in the course of such employment or engagement) shall not disclose any Confidential Information to any third party without prior written consent of the other party, except where disclosure is otherwise expressly permitted by the provisions of this Contract.
   3. The Consultant shall take all necessary precautions to ensure that all Confidential Information obtained from the Council is treated as confidential and not disclosed (without prior approval) or used other than for the purposes of this Contract by any of its employees, servants, agents or sub-Consultants.
   4. Without prejudice to the generality of the foregoing neither the Consultant or any person engaged by it whether as a servant or consultant or otherwise, shall use the Confidential Information for the solicitation of business from the Council whether directly or by its servants or consultants or any third party.
   5. The Consultant shall ensure that their employees, servants or such professional advisors or consultants are aware of the Consultant’s obligations under this Contract.
   6. The provisions of clauses 17.1 to 17.5 inclusive shall not apply to any information received by one party from the other:
      1. which is or becomes public knowledge (other than by breach of this Clause 17.6);
      2. which was in the possession of the receiving party, without restriction as to its disclosure, before the date of receipt from the disclosing party;
      3. which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;
      4. which is independently developed without access to the Confidential Information;
      5. which 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 Freedom of Information Act or the Environmental Information Regulations.
   7. Nothing in this Contract shall prevent the Council from disclosing the Consultant's Confidential Information:
      1. to Parliament and Parliamentary Committees or if required by any Parliamentary reporting requirement;
      2. to the extent that the Council (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions;
      3. on a confidential basis to a professional adviser, consultant, supplier or other person engaged by any of the entities described in Clause 17.7.1 (including any benchmarking organisation) for any purpose relating to or connected with this Contract;
      4. on a confidential basis for the purpose of the exercise of its rights under this Contract, including audit rights, step-in rights and exit management rights; or
      5. on a confidential basis to a proposed successor body in connection with any assignment, novation or disposal of any of its rights, obligations or liabilities under this Contract.
   8. The Council shall use all reasonable endeavours to ensure that any third party or Sub-Consultant to whom the Consultant's Confidential Information is disclosed pursuant to Clause 17 is made aware of the Council's obligations of confidentiality.
   9. Nothing in this Clause 17 shall prevent either party from using any techniques, ideas or know-how gained during the performance of this Contract in the course of its normal business, to the extent that it does not result in a disclosure of Confidential Information or an infringement by either party of any Intellectual Property Rights.
   10. Nothing in this Clause 17 shall prevent the Council from exercising licenses granted to it under this Contract or enjoying Intellectual Property Rights vesting in or transferring to it under this Contract.
   11. The Consultant undertakes to make no reference in any advertising or other promotional material to this Contract without the prior written consent of the Council.
   12. Any findings and/or contents of reports produced under this Contract shall not be disclosed without the permission of the Council which shall not be unreasonably withheld.
   13. In the event that the Consultant fails to comply with this Clause 17, the Council reserves the right to terminate the Contract by notice in writing with immediate effect.
   14. In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the supply of the Services, the Consultant undertakes to maintain adequate security arrangements that meet the requirements of professional standards and best practice.
   15. The Consultant will immediately notify the Council of any breach of security in relation to Confidential Information and all data obtained in the supply of the Services and will keep a record of such breaches. The Consultant will use its best endeavours to recover such Confidential Information or data however it may be recorded. This obligation is in addition to the Consultant’s obligations under clauses 17.1, 17.2 and 17.3. The Consultant will co-operate with the Council in any investigation that the Council considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.
   16. The Consultant shall, at its own expense, alter any security systems at any time during the Contract Period at the Council’s request if the Council reasonably believes the Consultant has failed to comply with clause 17.14.
   17. The parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the provisions of the FOIA.
   18. Subject to Clause 17.17, the Consultant hereby gives his consent for the Council to publish the Contract in its entirety, including from time to time agreed changes to the Contract, to the general public.
   19. The Council may consult with the Consultant to inform its decision regarding any redactions but the Council shall have the final decision in its absolute discretion.
   20. The Consultant shall assist and cooperate with the Council to enable the Council to publish this Contract.
5. Data Protection
   1. The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council and the Consultant are Joint Controllers. The only processing that the Consultant is authorised to do is listed in Schedule 1 by the Council and may not be determined by the Consultant.
   2. The Consultant shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.
   3. The Consultant shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Council, 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 Consultant shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
      1. process that Personal Data only in accordance with Schedule 1 attached to this Contract, unless the Consultant is required to do otherwise by Law. If it is so required the Consultant shall promptly notify the Council before processing the Personal Data unless prohibited by Law;
      2. ensure that it has in place Protective Measures, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures. The Council will have the right to review these Protective Measures at any point during the term of the Contract.
      3. ensure that :
         1. the Consultant Personnel do not process Personal Data except in accordance with this Contract (and in particular as detailed in Schedule 1)
         2. it takes all reasonable steps to ensure the reliability and integrity of any Consultant personnel who have access to the Personal Data and ensure that they:
            1. are aware of and comply with the Consultant’s duties under this clause;
            2. are subject to appropriate confidentiality undertakings with the Consultant 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 Council or as otherwise permitted by this Contract; and
            4. have undergone adequate training in the use, care, protection and handling of Personal Data.
      4. not transfer Personal Data outside of the EU unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:
         1. the Council or the Consultant has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Council;
         2. the Data Subject has enforceable rights and effective legal remedies;
         3. the Consultant 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 Council in meeting its obligations); and
         4. the Consultant complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;
      5. at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the Contract unless the Consultant is required by Law to retain the Personal Data.
   5. Subject to clause 18.6, the Consultant shall notify the Council immediately if it:
      1. receives a Data Subject Access Request (or purported Data Subject Access Request);
      2. receives a request to rectify, block or erase any Personal Data;
      3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
      4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
      5. receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
      6. becomes aware of a Data Loss Event.
   6. The Consultant’s obligation to notify under clause 18.5 shall include the provision of further information to the Council in phases, as details become available.
   7. Taking into account the nature of the processing, the Consultant shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 18.5 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:
      1. the Council with full details and copies of the complaint, communication or request;
      2. such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
      3. the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
      4. assistance as requested by the Council following any Data Loss Event;
      5. assistance as requested by the Council with respect to any request from the Information Commissioner’s Office, or any consultation by the Council with the Information Commissioner's Office.
   8. The Consultant shall maintain complete and accurate records and information to demonstrate its compliance with this clause.
   9. The Consultant shall allow for audits of its Data Processing activity by the Council or the Council’s designated auditor.
   10. The Consultant shall designate a data protection officer if required by the Data Protection Legislation.
   11. Before allowing any Sub-processor to process any Personal Data related to this Contract, the Consultant must:
       1. notify the Council in writing of the intended Sub-processor and processing;
       2. obtain the written consent of the Council;
       3. enter into a written Contract with the Sub-processor which give effect to the terms set out in this clause 18 such that they apply to the Sub-processor; and
       4. provide the Council with such information regarding the Sub-processor as the Council may reasonably require.
   12. The Consultant shall remain fully liable for all acts or omissions of any Sub-processor.
   13. The Consultant may, at any time on not less than 30 Working Days’ notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
   14. The Parties agree to take account of any guidance issued by the Information Commissioner’s Office. The Council may on not less than 30 Working Days’ notice to the Consultant amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner’s Office.
   15. The Consultant will indemnify the Council and keep the Council indemnified in full against all costs, expenses, damages and direct losses (including any interest, penalties, and reasonable legal and other professional fees) awarded against or incurred or paid by the Council as a result of or in connection with any claim made against the Council for actual or alleged breach of this clause 18 arising out of, or in connection with, the supply or use of the Consultancy Services, to the extent that the claim is attributable to the Consultants acts or omissions.
6. Freedom of Information
   1. The Consultant acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.
   2. The Consultant shall and shall procure that its Sub-Consultants shall:
      1. transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;
      2. provide the Council with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and
      3. provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
   3. The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other Contract whether any Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
   4. In no event shall the Consultant respond directly to a Request for Information unless expressly authorised to do so by the Council.
   5. The Consultant acknowledges that (notwithstanding the provisions of Clause 19) the Council may, acting in accordance with the Ministry of Justice’s Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 (**“the Code”**), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Consultant or the Project:
      1. in certain circumstances without consulting the Consultant; or
      2. following consultation with the Consultant and having taken their views into account;
      3. provided always that where 19.5.1 applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Consultant advanced notice, or failing that, to draw the disclosure to the Consultant’s attention after any such disclosure.
   6. The Consultant shall ensure that all Information is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.
7. Assignment and Sub-contracting
   1. Neither the benefit nor the burden of this Contract may be assigned or sub-contracted in whole or in part by the Consultant without the prior written consent of the Council. Such consent may be given subject to any conditions which the Council considers necessary. The Council may withdraw its consent to any sub-Consultant where it no longer has reasonable grounds to approve of the sub-Consultant or the sub-contracting arrangement and where these grounds have been presented in writing to the Consultant.
   2. Where the Consultant enters into a contract with a Sub-Consultant for the purpose of performing its obligations under the Contract it shall ensure prompt payment in accordance with this clause 20.2. Unless otherwise agreed by the Council in writing, the Consultant shall ensure that any contract requiring payment to a Sub-Consultant shall provide for undisputed sums due to the Sub-Consultant to be made within a specified period from the receipt of a valid invoice not exceeding 30 days.
   3. The Consultant shall comply with such terms and shall provide, at the Council’s request, sufficient evidence to demonstrate compliance.
   4. The Council shall be entitled to withhold payment due under clause 20.2 for so long as the Consultant, in the Council’s reasonable opinion, has failed to comply with its obligations to pay any Sub-Consultants promptly in accordance with clause 20.2. For the avoidance of doubt the Council shall not be liable to pay any interest or penalty in withholding such payment.
   5. The Consultant shall take all reasonable steps to satisfy itself that the sub-Consultants (or their employees) are suitable in all respects to perform the services required by the Consultant.
   6. The Consultant shall immediately notify the Council if it has any concerns regarding the propriety of any of the sub-Consultants in respect of services rendered in connection with this Contract.
   7. The Consultant or, where applicable its lawful assignees, shall at all times remain responsible for the proper performance of its obligations and for all the acts and omissions of its sub-Consultants in connection with this Contract.
8. Corrupt Gifts and Payment of Commission

The Consultant shall not, and shall ensure that its officers, employees, agents and sub-Consultants shall not, pay any commission, fees or grant any rebates to any employee, officer or agent of the Council nor favour any employee, officer or agent of the Council with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of the Council other than as a representative of the Council, without the Council's written approval. The Council shall have the right to audit any and all such records necessary to confirm compliance with this Clause 21 at any time during performance of this Contract and during the three year period following completion of performance. Breach of this Clause 21 shall entitle the Council to terminate this Contract and any other contracts between the Consultant and the Council forthwith.

1. Waiver

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

1. Severability

If any provision or part of a provision of this Contract shall be or shall become unenforceable, void or invalid (as the case may be) such provision or part thereof shall not affect and shall be deemed to be severed from the remainder of this Contract to the intent that the remainder of the affected provision and this Contract shall be or shall continue to be fully enforceable and valid.

1. DISCRIMINATION
   1. The Consultant shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation or otherwise) in employment.
   2. The Consultant shall take all reasonable steps to secure the observance of Clause 24.1 by all servants, employees or agents of the Consultant and all suppliers and sub-Consultants employed in the execution of the Contract.
2. The Contract (Rights of Third Parties) Act 1999

A person who is not a party to this Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This clause does not affect any right or remedy of any person which exists or is available otherwise then pursuant to that Act.

1. Dispute Resolution
   1. The parties shall use all reasonable endeavours to negotiate in good faith and settle amicably any dispute that arises during the continuance of this Contract.
   2. Any dispute not capable of resolution by the parties in accordance with the terms of Clause 26.1 shall be settled as far as possible by mediation in accordance with the Centre for Dispute Resolution (CEDR) model Mediation Procedure.
   3. No party may commence any court proceedings in relation to any dispute arising out of this Contract until they have attempted to settle it by mediation in accordance with the provisions of Clause 26.2.
2. Notices

Any notices to be given under this Contract shall be delivered personally or sent by post or by facsimile transmission to the Contract Manager (in the case of the Council) or to the address set out in this Contract (in the case of the Consultant). Any such notice shall be deemed to be served, if delivered personally, at the time of delivery, if sent by post, 48 hours after posting or, if sent by facsimile transmission, 12 hours after proper transmission.

1. Law and Jurisdiction

This Contract shall be governed by and interpreted in accordance with English law and the parties submit to the jurisdiction of the English courts.

As witness the hands of the parties

|  |  |
| --- | --- |
| Authorised to sign for and on behalf of Norfolk County Council | Authorised to sign for and on behalf of to be completed at award |
| Signature | Signature |
| Name in CAPITALS | Name in CAPITALS |
| Position in Organisation | Position in Organisation |
| Address in full | Address in full |
| Date | Date |

# Schedule 1 Specification/Statement of Work

# Schedule 2 Charges

1. PRICE

[To be inserted at award]

1. GENERAL
   1. All fees, costs and expenses payable to the Consultant under this Contract are exclusive of VAT which shall in addition be payable by the Council where appropriate (at the times provided in this Contract) against delivery of a suitable VAT invoice
   2. For the sake of clarity it is understood that all travel, hotel and other subsistence charges for Consultancy Services under this Contract are included in the Charges detailed in Clause 1
   3. The Consultant shall maintain full and accurate accounts in relation to the Consultancy Services. Such accounts shall be retained for at least 6 years after the end of the financial year in which the last payment was made under this Contract. Input and output VAT shall be included as separate items in such accounts.
   4. The Consultant shall permit duly authorised staff or agents of the Council or the National Audit Office to examine the accounts identified in Clause 2.3 above at any reasonable time and shall furnish oral or written explanations of the accounts if required. The Council reserves the right to have such staff or agents carry out examinations into the economy, efficiency and effectiveness with which the Consultant has used the Council's resources in the performance of this Contract.
2. invoices
   1. Invoices shall be prepared by the Consultant on the invoice dates specified in the Table in this Schedule or in Schedule 1 in arrears.
   2. Invoices shall be sent, within five days of the invoice dates specified in the Table to \*\*\*Proc\_invoiceaddress\_tx\*\*\*, quoting the Contract reference number. The Council undertakes to pay correctly submitted invoices within 30 days of receipt. Any correctly submitted invoices that are not paid within 30 days may be subject to the provisions of the Late Payment of Commercial Debt (Interest) Act 1998. A correct invoice is one that complies with paragraph 3.1 of this Schedule; is delivered in timing in accordance with the contract; is for the correct sum; in respect of goods/services supplied or delivered to the required quality (or are expected to be at the required quality); includes the date, supplier name, contact details and bank details; quotes the relevant purchase order/contract reference and has been delivered to the nominated address. If any problems arise, contact the Council's Contract Manager. The Council aims to reply to complaints within 10 working days. The Council shall not be responsible for any delay in payment caused by incomplete or illegible invoices.
   3. The Consultant shall have regard to the need for economy in all expenditure. Where any expenditure in an invoice, in the Council's reasonable opinion, is excessive having due regard to the purpose for which it was incurred, the Council shall only be liable to reimburse so much (if any) of the expenditure disallowed as, in the Council's reasonable opinion after consultation with the Consultant, would reasonably have been required for that purpose.
   4. On completion of the Consultancy Services, the Consultant shall promptly draw-up a final invoice, which shall cover all outstanding expenditure incurred for the Consultancy Services. The final invoice shall be submitted not later than 30 days after the date of completion of the Consultancy Services. The Council shall not be obliged to pay the final invoice until the Consultant has carried out all the elements of the Consultancy Services specified in Schedule 1.
   5. If this Contract is terminated by the Council for any reason at any time before completion of the Consultancy Services, the Council shall only be liable to reimburse eligible payments made by, or due to, the Consultant before the date of termination.
   6. The Consultant shall ensure that the final invoice covers all outstanding expenditure for which reimbursement may be claimed. Provided that all previous invoices have been duly paid, on due payment of the final invoice by the Council all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the Council shall have no further liability to make reimbursement of any kind.
   7. Where the Consultant issues a single invoice for the Consultancy Services, the Council shall not be obliged to pay the invoice until the Consultant has carried out all the elements of the Consultancy Services as specified in Schedule 1. It shall be the responsibility of the Consultant to ensure that the invoice covers all outstanding expenditure for which reimbursement may be claimed. On payment of the invoice by the Council all amounts due to be reimbursed under this Contract shall be deemed to have been paid and the Council shall have no further liability to make reimbursement of any kind.