

# **Integrated Victims and Witnesses Service**

Contract Reference Number: GLA81185

Date:

## **Contract for Services**

**between**

**MOPAC**

**and**

**Victim Support**

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**THIS CONTRACT** is made on the                      day of                      2019

**BETWEEN:**

- (1) The Mayor's Office for Policing and Crime (MOPAC) ("**the Authority**");  
and
- (2) Victim Support, a charity and company registered in England and Wales (Charity Registration Number: 298028; Company Registration Number: 2158780) whose registered office is at Octavia House, 50 Banner Street, London, EC1Y 8ST ("**the Service Provider**").

**RECITALS:**

- A. For the provision of an Integrated Victims and Witnesses Service (IVWS), the objectives of which are to support victims of crime to cope and recover; and to provide support to witnesses to give their best evidence. The service will be a Pan-London service available across the 32 London boroughs and the City of London.
- B. The Authority wishes the Service Provider to provide the Services and the Service Provider is willing to provide the Services to the Authority on the terms and conditions set out in the Contract.
- C. The Service Provider should be aware that the Authority does not offer any guarantee or minimum volume of the Services that may be delivered under this Contract and does not offer any exclusivity to the Service Provider.

**THE PARTIES AGREE THAT:**

**1. Definitions and Interpretation**

In the Contract (including the Recitals):

- 1.1 unless the context indicates otherwise the following expressions shall have the following meanings:

<b>"Affected Party"</b>	has the meaning given to it in Clause 29.3;
<b>"Authority"</b>	means the Mayor's Office for Policing and Crime;
<b>"Authority Assets"</b>	means any assets (whether tangible or intangible), materials, resources, systems, networks, connectivity and other equipment, machinery and facilities owned by or licensed to the Authority
<b>"Authority Group"</b>	(a) means the GLA, TfL, the Mayor's Office for Policing and Crime, the London Fire and Emergency Planning Authority, London Legacy Development Corporation and the Old

	<p>Oak and Park Royal Development Corporation (“<b>Functional Bodies</b>”) each in their own right and as holding companies of all of their subsidiaries (as defined in section 1159 of the Companies Act 2006) from time to time together and reference to any “<b>member of the Authority Group</b>” shall refer to the GLA, any Functional Body or any such subsidiary;</p>
<b>“Authority Premises”</b>	any land or premises (including temporary buildings) owned or occupied by or on behalf of any member of the Authority Group;
<b>“Business Day”</b>	any day excluding Saturdays, Sundays or public or bank holidays in England;
<b>“Business Continuity and Disaster Recovery Plan</b>	means any plan prepared pursuant to Clause 38 detailing the processes and arrangements which the Service Provider shall follow to ensure continuity of business processes and operations supported by the Services following any failure or disruption of the Services and the recovery of the Services in the event of a loss of service
<b>“Cessation Plan”</b>	a plan agreed between the Parties or determined by the Authority pursuant to Clauses 31.1 to 31.5 (inclusive) to give effect to a Declaration of Ineffectiveness or Clauses 31.6 to 31.10 (inclusive) to give effect to a Public Procurement Termination Event;
<b>“Confidential Information”</b>	all information (whether written or verbal) that by its nature may reasonably be regarded as confidential to the Authority (or any member of the Authority Group) whether commercial, financial, technical or otherwise, and including information which relates to the business affairs, customers, suppliers, products, software, telecommunications, networks, trade secrets, know-how or personnel of the Authority);
<b>“Contract”</b>	this contract, including the Schedules, the Tender and all other documents referred to in this contract;

<b>“Contract Commencement Date”</b>	the date for commencement of the Contract specified in Schedule 1;
<b>“Contract Information”</b>	(i) the Contract in its entirety (including from time to time agreed changes to the Contract) and (ii) data extracted from the invoices and monitoring reports submitted pursuant to Clause 5 which shall include the Service Provider’s name and the invoice amount;
<b>“Contract Manager”</b>	the person named as such in Schedule 1 or such other person as notified to the Service Provider by the Authority;
<b>“Data Protection Legislation”</b>	means: <ul style="list-style-type: none"> <li>(a) the Data Protection Act 2018;</li> <li>(b) Regulation (EU) 2016/679 (the General Data Protection Regulation);</li> <li>(c) any other applicable privacy and data protection legislation in force from time to time in the United Kingdom; and</li> <li>(d) any statutory codes of practice issued by the Information Commissioner in relation to such legislation;</li> </ul>
<b>“Declaration of Ineffectiveness”</b>	a declaration of ineffectiveness in relation to this Contract made by a Court of competent jurisdiction pursuant to Regulation 98 of the Public Contracts Regulations 2015 or Regulations 113(2)(a) or 118(3) of the Utilities Contracts Regulations 2016;
<b>“Fees”</b>	means the fees payable by the Authority, in consideration of the due and proper performance of the Services in accordance with the Contract, as specified in or calculated in accordance with Schedule 4 as the same may be varied from time to time in accordance with Clause 29.6 or Clause 34;
<b>“Force Majeure Event”</b>	any of the following: riot, civil unrest, war, act of terrorism, threat or perceived threat of act of terrorism, fire, earthquake, extraordinary storm, flood, abnormal weather conditions or other natural catastrophe or strikes, lock-

outs or other industrial disputes to the extent that such event has materially affected the ability of the Affected Party to perform its obligations in accordance with the terms of the Contract but excluding any such event insofar as it arises from or is attributable to the wilful act, omission or negligence of the Affected Party or the failure on the part of the Affected Party to take reasonable precautions to prevent such Force Majeure Event or its impact;

**“Holding Company”**

any company which from time to time directly or indirectly controls the Service Provider as set out by section 1159 of the Companies Act 2006;

**“Insolvency Event”**

any of the following:

- (a) either or both of the Service Provider or the Holding Company making any voluntary arrangement with its creditors or becoming subject to an administration order;
- (b) a receiver, administrative receiver, manager, or administrator being appointed over all or part of the business of either or both of the Service Provider or the Holding Company;
- (c) being a company, either or both of the Service Provider or the Holding Company having passed a resolution for its winding-up or being subject to a petition for its winding-up (except for the purposes of a voluntary amalgamation, reconstruction or other re-organisation without insolvency);
- (d) either or both of the Service Provider or the Holding Company ceasing or threatening to cease to carry on its business for any reason or being unable to pay its debts within the meaning of the Insolvency Act 1986;

- (e) being an individual or firm, the Service Provider becoming bankrupt or dying;
- (f) any similar event to those in (a) to (e) above occurring in relation to either or both of the Service Provider or the Holding Company under the law of any applicable jurisdiction for those purposes;

**“Intellectual Property Rights”**

any patent, know-how, trade mark or name, service mark, design right, copyright, rights in passing off, database right, rights in commercial or technical information, any other rights in any invention, discovery or process and any other intellectual property rights, in each case whether registered or unregistered and including applications for the grant of any such rights and all rights or forms of protection having equivalent or similar effect in each case in the United Kingdom and anywhere else in the world;

**“Key Performance Indicators”**

means the outcomes the Service Provider is expected to meet in its delivery of the Services as detailed in Annex 2 to Schedule 4 in order to be eligible to receive the outcome payments, in line with the provisions of Schedule 4;

**“Key Personnel”**

the Service Provider’s key personnel named in Schedule 1;

**“Losses”**

all costs (including legal costs and costs of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profits, loss of business, depletion of goodwill and like loss), damages, claims, demands, proceedings and judgments;

**“Parties”**

the Authority and the Service Provider (including their successors and permitted assignees) and **“Party”** shall mean either of them as the case may be;

**“Performance Indicators”**

means the core service standards the Service Provider is required to meet in its delivery of the Services as detailed in



	Schedule 2 and which it is required to report against in order to receive service fee payments in line with the provisions of Schedule 4;
<b>“Personal Data”</b>	has the meaning given to it in the Data Protection Legislation;
<b>“Processing”</b>	has the meaning given to it in the Data Protection Legislation;
<b>“Procurement Manager”</b>	the person named as such in Schedule 1 and referred to in Clause 8 or such other person as notified to the Service Provider by the Authority;
<b>“Public Procurement Termination Event”</b>	has the meaning given to it in Clause 31.7;
<b>“Public Procurement Termination Grounds”</b>	any one or more of the grounds described either in Regulation 73(1) of the Public Contracts Regulations 2015 or Regulation 89(1) of the Utilities Contracts Regulations 2016;
<b>“Service Commencement Date”</b>	the date for commencement of the Services set out in Schedule 1;
<b>“Service Provider Equipment”</b>	the equipment and materials of whatsoever nature used by the Service Provider in providing the Services which do not themselves form part of the Services and in which title is not intended to pass to the Authority under the Contract;
<b>“Service Provider’s Personnel”</b>	all such persons, including (without limitation) employees, officers, suppliers, sub-contractors and agents of the Service Provider, as are engaged in the performance of any of the Services and including the Key Personnel;
<b>“Services”</b>	means: <ul style="list-style-type: none"> <li>(a) subject to Clause 29.6 all or any part of the services to be provided to, or activities to be undertaken and completed for, the Authority by the Service Provider under the Contract as detailed in the Specification including</li> </ul>

any variations to such services or activities pursuant to Clause 34; and

- (b) any services, functions or responsibilities which may be reasonably regarded as incidental to the foregoing services or activities and which may be reasonably inferred from the Contract;

**“Specification”** the specification and other requirements set out in Schedule 2;

**“Tender”** means the Service Provider’s proposals for the delivery of the Services in line with the Specification and as set out in Schedule 3;

**“Term”** the period during which the Contract continues in force as provided in Clause 2 and Schedule 1;

**“Transparency Commitment”** means the Authority’s commitment to publish its contracts, tender documents, performance and other data in line with standards published in the Local Government Transparency Code 2015 and the Authority Group’s transparency commitments;

**“VAT”** means value added tax as provided for in the Value Added Tax Act 1994 and any tax replacing the same or of a similar nature.

- 1.2 a reference to the singular includes the plural and vice versa, and a reference to any gender includes all genders;
- 1.3 a reference to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended or re-enacted by any subsequent statute, enactment, order, regulation or instrument and shall include all statutory instruments or orders made pursuant to it whether replaced before or after the date of execution of the Contract;
- 1.4 a reference to any document other than as specified in Clause 1.3 and save as expressed otherwise shall be construed as a reference to the document as at the date of execution of the Contract;
- 1.5 headings are included in the Contract for ease of reference only and do not affect the interpretation or construction of the Contract;
- 1.6 references to Clauses and Schedules are, unless otherwise provided, references to clauses of, and schedules to, the Contract and any

reference to a paragraph in any Schedule shall, in the absence of provision to the contrary, relate to the paragraph in that Schedule;

- 1.7 in the event, and only to the extent, of any conflict between the Clauses and the Schedules, the Clauses prevail, and if the conflict is between the Specification (Schedule 2) and the Tender (Schedule 3), the provisions in Schedule 2 (The Specification) shall prevail.
- 1.8 the Schedules form part of the Contract and will have the same force and effect as if expressly set out in the body of the Contract;
- 1.9 the expression “person” means any individual, firm, body corporate, unincorporated association, partnership, government, state or agency of a state or joint venture; and
- 1.10 the words “including”, “includes” and “included” will be construed without limitation unless inconsistent with the context.

## **2. Commencement and Duration**

- 2.1 The Contract commences on the Contract Commencement Date and continues in force for the duration stated in Schedule 1 unless terminated earlier in accordance with Clause 29, or extended in line with Clause 2.2.
- 2.2 The Authority has an option, exercisable at its sole discretion, to extend the duration of the Contract for a further period or periods up to a total of two years by giving notice in writing to the Service Provider provided that such notice is served at least three months prior to the expiry of the initial duration of the Contract or the expiry of any previous extension, if later.

## **3. The Services**

- 3.1 The Service Provider:
  - 3.1.1 shall provide the Services to the Authority from the Service Commencement Date in accordance with the Contract;
  - 3.1.2 acknowledges that it has sufficient information about the Authority and the Specification and that it has made all appropriate and necessary enquiries to enable it to perform the Services in accordance with the Contract;
  - 3.1.3 shall neither be entitled to any additional payment nor excused from any obligation or liability under the Contract due to any misinterpretation or misunderstanding by the Service Provider of any fact relating to the Specification or otherwise to the Contract; and
  - 3.1.4 shall comply with all lawful and reasonable directions of the Authority relating to its performance of the Services.

- 3.2 Notwithstanding anything to the contrary in the Contract, the Authority's discretion in carrying out its statutory duties shall not be fettered or otherwise constrained or affected by any provision of the Contract;
- 3.3 The Service Provider shall provide the Services:
- 3.3.1 with the high degree of skill, care and diligence normally exercised by recognised professional firms or by highly skilled and experienced service providers providing services of a similar scope, type and complexity to the Services and with sufficient resources including project management resources;
  - 3.3.2 in conformance in all respects with the Specification and so that they fulfil the purpose indicated by or to be reasonably inferred from the Specification;
  - 3.3.3 in a safe manner and free from any unreasonable or avoidable risk to any person's health and well-being and in an economic and efficient manner; and
  - 3.3.4 so that they are properly managed and monitored and shall immediately inform the Authority if any aspect of the Contract is not being or is unable to be performed.
- 3.4 Where in the reasonable opinion of the Authority the Service Provider has failed to provide the Services or any part of them in accordance with the Contract, the Service Provider shall, without prejudice to any of the Authority's other rights, re-perform the Services or part thereof as requested by the Authority at no additional cost and within such period of time as reasonably specified by the Authority.
- 3.5 Where reasonably requested to do so by the Authority and provided the Service Provider is willing to so contract, the Service Provider shall contract with such other member(s) of the Authority Group as on the terms of this Contract with only the necessary changes of Parties' details being made.
- 3.6 Throughout the term of the Contract the Service Provider shall when required give to the Authority such written or oral advice or information regarding any of the Services as the Authority may reasonably require.
4. **Fees**
- 4.1 The Service Provider shall invoice the Authority in accordance with the procedures set out in Clause 5 and in consideration of, and subject to the due and proper performance of the Services by the Service Provider in accordance with the Contract, the Authority shall pay the Service Provider the Fees in accordance with those procedures and with the other terms and conditions of the Contract.
- 4.2 The Service Provider is not entitled to reimbursement for expenses unless such expenses are specified in Schedule 4 or have been incurred

with the prior written consent of the Authority, in which case the Service Provider shall supply appropriate evidence of expenditure in a form acceptable to the Authority.

- 4.3 All Fees exclude any VAT which may be chargeable, which will be payable in addition to the sum in question at the rate and in the manner for the time being prescribed by law on delivery of a valid VAT invoice.

## **5. Payment Procedures and Approvals**

- 5.1 Payments of the Fees will be made in accordance with this clause 5 and the provisions of Schedule 4.

- 5.2 In order for any payment of the Fees to be made, the Service Provider shall:

- 5.2.1 submit an invoice in accordance with the deadlines and procedure set out in Clause 5.3 below and in Schedule 4;

- 5.2.2 submit the relevant monitoring returns as required and in the format requested by the Authority in accordance with the deadlines set out in Schedule 4; and

- 5.2.3 submit such other documentation the Authority reasonably considers that it requires from time to time to evidence the due and proper performance of the Services in accordance with the Contract;

and shall not make any separate charge for submitting any invoice.

- 5.3 The Service Provider shall submit invoices to the postal or electronic address set out in Schedule 1 or, where an electronic format for submission of invoices is set out in Schedule 1, such electronic format shall, unless the Authority requires otherwise, be used. Each such invoice shall contain all information required by the Authority, including a separate calculation of any VAT. Invoices shall be clear, concise, accurate, and adequately descriptive to avoid delays in processing subsequent payment.

- 5.4 In the event of a variation to the Services in accordance with the Contract that involves the payment of additional charges to the Service Provider, the Service Provider shall identify these separately on the relevant invoices.

- 5.5 The Authority shall not be required or be liable to pay all or part of the Fees if such documentation referred to in clause 5.2 above is not received by the relevant deadlines

- 5.6 The Authority shall consider and verify each invoice, which is submitted by the Service Provider in accordance with this Clause 5, in a timely manner. If the Authority considers that the Fees claimed by the Service Provider in any invoice have:

- 5.6.1 been correctly calculated and that such invoice is otherwise correct, the invoice shall be approved and payment shall be made by bank transfer (Bank Automated Clearance System (BACS)) or such other method as the Authority may choose from time to time within 30 days of receipt of such invoice or such other time period as may be specified in Schedule 1;
  - 5.6.2 not been calculated correctly or if the invoice contains any other error or inadequacy, including any failure to provide any of the information set out in Clause 5.2, the Authority shall notify the Service Provider and the Parties shall work together to resolve the error or inadequacy. Upon resolution, the Service Provider shall submit a revised invoice to the Authority; and
  - 5.6.3 the Authority shall not be entitled to treat any properly submitted invoice as disputed or incorrect solely due to its own undue delay in considering and verifying it.
- 5.7 No payment made by the Authority (including any final payment) or act or omission or approval by the Authority or Contract Manager or Procurement Manager (whether related to payment or otherwise) shall:
  - 5.7.1 indicate or be taken to indicate the Authority's acceptance or approval of the Services or any part of them or any act or omission of the Service Provider, or otherwise prejudice any rights, powers or remedies which the Authority may have against the Service Provider, or absolve the Service Provider from any obligation or liability imposed on the Service Provider under or by virtue of the Contract; or
  - 5.7.2 prevent the Authority from recovering any amount overpaid or wrongfully paid including payments made to the Service Provider by mistake of law or fact. Without prejudice to Clause 20, the Authority shall be entitled to withhold such amount from any sums due or which may become due to the Service Provider or the Authority may recover such amount as a debt.
- 5.8 Except where otherwise provided in the Contract, the Fees shall be inclusive of all costs of staff, facilities, equipment, materials and other expenses whatsoever incurred by the Service Provider in discharging its obligations under the Contract.
- 5.9 Interest shall accrue at the rate of two percent (2%) above the base rate of the Bank of England from time to time on all sums due and payable under this Contract from the due date until the date of actual payment (both before and after judgement). All such interest shall be calculated on the basis of the actual number of days elapsed, over a three hundred and sixty-five (365) day year and compounded at monthly intervals. The parties agree that this provision constitutes a substantial remedy for late payment of any sum payable under the Contract in accordance with s8(2) of the Late Payment of Commercial Debts (Interest) Act 1998.

## **6. Monitoring of Service Provider Performance**

- 6.1 The Service Provider shall ensure that the Services meet or exceed the Key Performance Indicators (KPIs) and Performance Indicators (PIs) at all times from the Service Commencement Date.
- 6.2 The Authority shall monitor the Service Provider's performance against the KPIs and PIs in accordance with the provisions of Schedule 4 (Payment & Monitoring) or such other requirements as notified by the Authority to the Service Provider from time to time. The Authority may organise regular monitoring and spot checks of the Service Provider's premises at any time to ensure that the Service Provider is complying with its obligations under the Contract and the Service Provider shall co-operate fully, at its own cost, with the Authority. The Authority shall use all reasonable endeavours to ensure that the onsite monitoring will not interfere with the delivery of the Services by the Service Provider.
- 6.3 The Service Provider shall ensure that the Authority (and its authorised representatives) have access upon reasonable notice to all relevant property, including the Service Provider's premises, and those of any sub-contractors, and information (and where requested are given a copy of such information, subject always to the provisions of Clause 25.1) necessary to carry out the monitoring referred to in this Clause 6 including putting in place arrangements to permit legal access to information as may be required.
- 6.4 With effect from the date of the Contract the Authority and the Service Provider shall meet at the times and with such frequency as specified in Schedule 4 (Payment & Monitoring) or as notified by the Authority to the Service Provider from time to time. Such meetings shall be convened by the Authority upon the Authority giving reasonable notice to the Service Provider.
- 6.5 For the avoidance of doubt, if the Service Provider fails to meet the KPIs and PIs in its delivery of the Services this shall be deemed a breach of the Contract and if the Service Provider fails to take action to remedy any breach and, or repeats its failure to meet the KPIs and PIs this shall be deemed a material or persistent breach of the Contract for the purposes of Clause 29.1.1.

## **7. Warranties and Obligations**

- 7.1 Without prejudice to any other warranties expressed elsewhere in the Contract or implied by law, the Service Provider warrants, represents and undertakes to the Authority that:

### **7.1.1 the Service Provider:**

- 7.1.1.1 has full capacity and authority and all necessary licences, permits, permissions, powers and consents (including, where its procedures so require, the

consent of its Holding Company) to enter into and to perform the Contract; and

7.1.1.2 is aware of the purposes for which the Services are required and acknowledges that the Authority is reliant upon the Service Provider's expertise and knowledge in the provision of the Services; and

7.1.1.3 is entering into this Contract as principal and not as agent for any person and that it will act as an independent contractor in carrying out its obligations under this Contract;

7.1.2 the Contract is executed by a duly authorised representative of the Service Provider;

7.1.3 all materials, equipment and goods used or supplied by the Service Provider in connection with the Contract shall be of satisfactory quality within the meaning of the Sale of Goods Act 1979 (as amended), sound in design and in conformance in all respects with the Specification; and

7.1.4 all documents, drawings, computer software and any other work prepared or developed by the Service Provider or supplied to the Authority under the Contract shall not infringe any Intellectual Property Rights or any other legal or equitable right of any person.

7.2 Each warranty and obligation in this Clause 7 shall be construed as a separate warranty or obligation (as the case may be) and shall not be limited or restricted by reference to, or reference from, the terms of any other such warranty or obligation or any other term of the Contract.

## **8. Operational Management**

8.1 The Authority authorises the Contract Manager to act as the Authority's representative for the Contract.

8.2 The Service Provider shall deal with the Contract Manager (or his or her nominated representative) in respect of all matters arising under the Contract, except as set out below or unless otherwise notified by the Authority:

8.2.1 variations to the Contract;

8.2.2 any matter concerning the terms of the Contract; and

8.2.3 any financial matter (including any issues in Schedule 4),

which shall be referred to the Procurement Manager.



- 8.3 The Service Provider shall, at the Authority's request, provide promptly to the Authority at no additional cost such reports on the provision of the Services as the Authority may reasonably request.

**9. Service Provider's Personnel**

- 9.1 In the event that the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended do apply the Parties confirm that the provisions set out in Clause 10 shall apply.
- 9.2 Nothing in this Contract will render the Service Provider's Personnel, an employee, agent or partner of the Authority or Authority Group by virtue of the provision of the Services by the Service Provider under the Contract, and the Service Provider shall be responsible for making appropriate deductions for tax and national insurance contributions from the remuneration paid to the Service Provider's Personnel.
- 9.3 The Service Provider shall provide the Service Provider's Personnel as necessary for the proper and timely performance and management of the Services in accordance with the Contract. All personnel deployed on work relating to the Contract shall have the appropriate qualifications, training and competence, be properly managed and supervised and in these and any other respects be acceptable to the Authority.
- 9.4 Without prejudice to any of the Authority's other rights, powers or remedies, the Authority may acting reasonably (without liability to the Service Provider) deny access to any Service Provider's Personnel to any Authority Premises and/or require that any Service Provider's Personnel be immediately removed from performing the Services if such Service Provider's Personnel in the Authority's view have not been properly trained in any way required by this Contract, are otherwise incompetent, negligent, guilty of misconduct or could be a danger to any person. The Authority shall notify the Service Provider of such denial and/or requirement in writing and the Service Provider shall comply with such notice and provide a suitable replacement (with the Contract Manager's prior consent in the case of Key Personnel)
- 9.5 The Service Provider shall give the Authority, if so requested, full particulars of all persons who are or may be at any time employed on the Contract and shall take all reasonable steps to avoid changes to any of its staff designated in the Contract as Key Personnel. The Service Provider shall give the Authority reasonable notice of any proposals to change Key Personnel and Clause 9.3 shall apply to the proposed replacement personnel. Notwithstanding Clause 9.1, the Service Provider shall indemnify, keep indemnified and hold harmless the Authority from and against all Losses which the Authority or other member of the Authority Group incur or suffer in relation to the Service Provider's Personnel or any person who may allege to be the same (whenever such Losses may arise) or any failure by the Service Provider to comply with Clause 9.4.

10. **Transfer of Employees to Service Provider**

10.1 For the purposes of this Clause 10 and Clause 11, unless the context indicates otherwise, the following expressions shall have the following meanings:

10.1.1 **“Current Service Provider(s)”** means the provider or providers of services substantially similar to the Services immediately before the Service Commencement Date;

10.1.2 **“Employment Costs”** means all salaries, wages, commissions, bonuses, holiday pay (including payment for accrued but untaken holiday), sick pay, national insurance contributions, pension contributions made to or on behalf of an employee, taxation (including all income tax deductible under PAYE) and all other emoluments);

10.1.3 **“Employment Liabilities”** means all costs (including the costs of enforcement), expenses, liabilities (including any tax liability), injuries, damages, awards, compensation, claims, demands, proceedings and legal costs (on a full indemnity basis);

10.1.4 **“Final Staff List”** has the meaning set out in Clause 11.4;

10.1.5 **“Further Transfer Date”** means the date on which the Services (or any part of them) cease to be provided by the Service Provider and start to be performed by the Authority or any Replacement Service Provider when (assuming that TUPE applies) the transfer of employment of the Re-Transferring Personnel from the Service Provider to the Authority or any Replacement Service Provider occurs;

10.1.6 **“Relevant Period”** means the period starting on the earlier of:

10.1.6.1 the date falling 6 calendar months before the date of expiry of the Contract, including where the Contract is extended in line with Clause 2.2; or

10.1.6.2 if the Contract is terminated by either Party in accordance with Clause 26.3 or by the Authority in accordance with Clause 26.1, 26.2, 26.4 or 26.5, the date of the relevant termination notice;

and ending on the Further Transfer Date;

10.1.7 **“Replacement Service Provider”** means any replacement supplier or provider to the Authority of the Services (or any part of the Services) and any Sub-Contractor to such replacement supplier or provider;

10.1.8 **“Re-Transferring Personnel”** means any Service Provider’s Personnel who are assigned (for the purposes of TUPE) to the

relevant Services (or any part of them) immediately before the Further Transfer Date and whose employment contract will transfer to the Authority or the Replacement Service Provider pursuant to TUPE with effect from the Further Transfer Date;

10.1.9 “**Staff List**” has the meaning set out in Clause 11.1;

10.1.10 “**Staffing Information**” has the meaning set out in Clause 11.1;

10.1.11 “**Sub-Contractor**” means any subcontractor to the Current Service Provider(s), the Service Provider or the Replacement Service Provider as the context dictates which is engaged in the provision of the Services or any part of them (or services substantially similar to the Services or any part of them) and includes the sub-contractor of any such sub-contractor;

10.1.12 “**Transfer Date**” means the date(s) agreed between the Current Service Provider and the Service Provider when the Transferring Staff shall transfer from the Current Service Provider to the Service Provider;

10.1.13 “**Transfer of Services**” means the transfer of the provision of the Services from the Current Service Provider and any Sub-Contractor to the Service Provider and any Sub-Contractor;

10.1.14 “**Transferring Staff**” means such employees of the Current Service Provider(s) (and its Sub-Contractors) as are assigned (for the purposes of TUPE) to the Services; and

10.1.15 “**TUPE**” means the Transfer of Undertakings (Protection of Employment) Regulations 2006.

10.2 It is understood and acknowledged by the Parties that where TUPE applies to the Transfer of Service accordingly, pursuant to TUPE, the contracts of employment between the Current Service Provider and any Sub-Contractor and the Transferring Staff will have effect from the Transfer Date, as if originally made between the Service Provider (or its Sub-Contractor(s)) and the Transferring Staff (except in relation to occupational pension scheme benefits excluded under Regulation 10 of TUPE which will be subject to the provisions of Clause 10.3).

10.3 The Service Provider will provide the Transferring Staff with access to a pension scheme in accordance with the Pensions Act 2004 and the Transfer of Employment (Pension Protection) Regulations 2005 and TUPE with effect from the Transfer Date.

10.4 The Parties agree that all Employment Costs in respect of the Transferring Staff will be allocated as follows:

10.4.1 the Current Service Provider(s) will be responsible for any Employment Costs relating to the period up to the Transfer Date; and

- 10.4.2 the Service Provider will be responsible for any Employment Costs relating to the period on and after the Transfer Date,
- and Employment Costs will if necessary be apportioned on a time basis between the Current Service Provider(s) and the Service Provider, regardless of when such sums fall to be paid.
- 10.5 The Authority warrants to the Service Provider that none of the Authority's employees will transfer to the Service Provider under TUPE as a result of the Transfer of Service.
- 10.6 The Service Provider will indemnify and keep indemnified the Authority and the Current Service Provider(s) (and its Sub-Contractors) from and against all Employment Liabilities which the Authority or the Current Service Provider(s) (or its Sub-Contractors) incur or suffer arising out of or in connection with:
- 10.6.1 any act or omission by or on behalf of the Service Provider (or its Sub-Contractors) in respect of any person employed or engaged by it (or its Sub-Contractors) (including the Transferring Staff) on or after the Transfer Date;
- 10.6.2 any failure by the Service Provider (or its Sub-Contractors) to comply with Regulation 13 of TUPE in relation to the Transfer of Services;
- 10.6.3 any claim brought or other action taken by or on behalf of any of the Transferring Staff which arises from or in connection with (directly or indirectly) any act or omission or communication made to the Transferring Staff by the Service Provider (or its Sub-Contractors) before the Transfer Date;
- 10.6.4 the employment or termination of employment by the Service Provider (or its Sub-Contractors) of any Transferring Staff on or after the Transfer Date;
- 10.6.5 any actual or proposed changes by the Service Provider (or its Sub-Contractors) to the terms and conditions of employment or working conditions of any of the Transferring Staff which are or are alleged to be to the detriment of any of the Transferring Staff.
- 10.7 The Service Provider will provide the Current Service Provider(s) (or its Sub-Contractors), as soon as practicable, but in any event in good time before the Transfer Date with all information which the Current Service Provider (or its Sub-Contractors) may reasonably require to enable it to comply with its information and consultation obligations under TUPE and, if requested, will confirm to the Authority when it has done so and provide a copy to the Authority.
- 10.8 The Service Provider warrants and undertakes to the Authority that all information given to the Current Service Provider(s) (or its Sub-

Contractors) regarding the Transferring Staff and any measures it proposes to take in relation to them is and will be full and accurate in all respects.

- 10.9 Clause 33.1 shall be amended so that benefits conferred on the Current Service Provider or its Sub-Contractors under this Clause 10 shall be enforceable by them.

**11. Transfer of Employees on Expiry or Termination**

- 11.1 The Service Provider will promptly provide (and procure that its Sub-Contractors provide) when requested by the Authority (but not more than twice in any 12 month period) and not more than 7 days after the date of any notice to terminate this Contract given by either Party, the following information to the Authority:

11.1.1 an anonymised list of current Service Provider's Personnel and employees and workers of its Sub-Contractors engaged in the provision of the Services (each identified as such in the list) (the "**Staff List**");

11.1.2 such of the information specified in paragraph 2 of Schedule 6 as is requested by the Authority in respect of each individual included on the Staff List;

11.1.3 in the situation where notice to terminate this Contract has been given, an anonymised list of any persons who are materially engaged or have been materially engaged during the preceding six months in the provision of the Services, whom the Service Provider considers will not transfer under TUPE for any reason whatsoever together with details of their role and the reasons why the Service Provider thinks such persons will not transfer,

11.1.4 such information together being the "**Staffing Information**".

- 11.2 The Service Provider will notify the Authority as soon as practicable and in any event within 5 days of the Service Provider becoming aware of any additional or new Staffing Information and any changes to any Staffing Information already provided.

- 11.3 The Service Provider warrants to the Authority that any Staffing Information which it supplies (including any copies of it) is complete and accurate in all respects and will be kept complete and accurate.

- 11.4 Subject to Clause 11.5, the Service Provider will provide the Authority with a final Staff List (the "**Final Staff List**") and Staffing Information relating to persons on that list not less than 28 days before the Further Transfer Date.

- 11.5 If the Contract is terminated by either Party in accordance with Clause 29.3 or by the Authority in accordance with Clause 29.1, 29.2, 29.4 or 29.5 then the Final Staff List will be provided by the Service Provider to

the Authority as soon as practicable and no later than 14 days after the date of termination of the Contract.

- 11.6 The Service Provider warrants that as at the Further Transfer Date:
  - 11.6.1 the Final Staff List and the Staffing Information relating to persons on that list will be complete and accurate;
  - 11.6.2 the Final Staff List will identify all actual and potential Re-Transferring Personnel; and
  - 11.6.3 it will have disclosed all terms and conditions of employment or engagement and other Staffing Information relating to the Re-Transferring Personnel to the Authority.
- 11.7 During the Relevant Period the Service Provider will not and will procure that its Sub-Contractors do not without the prior written consent of the Authority (such consent not to be unreasonably withheld or delayed):
  - 11.7.1 terminate or give notice to terminate the employment or engagement or replace the persons listed on the most recent Staff List or any Re-Transferring Personnel (save for any termination for gross misconduct, provided that the Authority is informed promptly of such termination);
  - 11.7.2 deploy or assign any other person to perform the Services who is not included on the most recent Staff List other than temporarily and in the ordinary course of business;
  - 11.7.3 make, propose or permit any changes to the terms and conditions of employment or engagement of any persons listed on the most recent Staff List or any Re-Transferring Personnel;
  - 11.7.4 increase to any significant degree the proportion of working time spent on the Services by any of the Service Provider's Personnel other than temporarily and in the ordinary course of business; or
  - 11.7.5 introduce any new contractual or customary practice (including for the avoidance of doubt any payments on termination of employment) applicable to any person listed on the most recent Staff List or any Re-Transferring Personnel.
- 11.8 The Service Provider will promptly notify the Authority of any notice of resignation received from any person listed on the most recent Staff List or the Final Staff List (if any) during the Relevant Period regardless of when such notice takes effect.
- 11.9 The Service Provider agrees that the Authority will be permitted to disclose any information provided to it under this Clause 11 in anonymised form to any person who has been invited to tender for the provision of the Services (or similar services) and to any third party

engaged by the Authority to review the delivery of the Services and to any Replacement Service Provider.

- 11.10 If TUPE applies on the expiry or termination of the Contract, on the termination or variation of any Service or any part of such a Service, or on the appointment of a Replacement Service Provider, the following will apply:

11.10.1 The contracts of employment of the Re-Transferring Personnel will have effect from the Further Transfer Date as if originally made between the Re-Transferring Personnel and the Authority or Replacement Service Provider (or its Sub-Contractor) (as appropriate) (except in relation to occupational pension scheme benefits excluded under Regulation 10 of TUPE which will be treated in accordance with the provisions of the Pensions Act 2004 and the Transfer of Employment (Pensions Protection) Regulations 2005).

11.10.2 During the Relevant Period the Service Provider will:

11.10.2.1 provide the Authority or Replacement Service Provider (as appropriate) with access to such employment and payroll records as the Authority or Replacement Service Provider (as appropriate) may require to put in place the administrative arrangements for the transfer of the contracts of employment of the Re-Transferring Personnel to the Authority or Replacement Service Provider (as appropriate);

11.10.2.2 allow the Authority or Replacement Service Provider (as appropriate) to have copies of any of those employment and payroll records;

11.10.2.3 provide all original employment records relating to the Re-Transferring Personnel to the Authority or Replacement Service Provider (as appropriate); and

11.10.2.4 co-operate with the Authority and any Replacement Service Provider in the orderly management of the transfer of employment of the Re-Transferring Personnel.

If the Re-Transferring Personnel are employed or engaged by Sub-Contractors, the Service Provider will procure such Sub-Contractors provide the Authority or Replacement Service Provider (as appropriate) with the same level of access, information and cooperation.

11.10.3 The Service Provider warrants to each of the Authority and the Replacement Service Provider that as at the Further Transfer

Date no Re-Transferring Personnel (except where the Service Provider has notified the Authority and the Replacement Service Provider (if appointed) in writing to the contrary) to the Service Provider's knowledge:

11.10.3.1 is under notice of termination;

11.10.3.2 is on long-term sick leave;

11.10.3.3 is on maternity, parental or adoption leave;

11.10.3.4 has committed any serious security breach or engaged in any serious fraudulent activity or misconduct amounting to a breach of any regulations;

11.10.3.5 is entitled or subject to any additional terms and conditions of employment other than those disclosed to the Authority or Replacement Service Provider (as appropriate);

11.10.3.6 is or has been within the previous two years the subject of formal disciplinary proceedings;

11.10.3.7 has received a written warning (other than a warning that has lapsed);

11.10.3.8 has taken or been the subject of a grievance procedure within the previous two years; or

11.10.3.9 has objected, or has indicated an intention to object, in accordance with TUPE to his or her employment transferring to the Authority or Replacement Service Provider (as appropriate) under TUPE.

11.10.4 The Service Provider undertakes to each of the Authority and any Replacement Service Provider that it will (and will procure that its Sub-Contractors will):

11.10.4.1 continue to perform and observe all of its obligations under or in connection with the contracts of employment of the Re-Transferring Personnel and any collective agreements relating to the Re-Transferring Personnel up to the Further Transfer Date;

11.10.4.2 pay to the Re-Transferring Personnel all Employment Costs to which they are entitled from the Service Provider or any Sub-Contractor which fall due in the period up to the Further Transfer Date;



11.10.4.3 to pay to the Authority or the Replacement Service Provider (as appropriate) within 7 days of the Further Transfer Date any apportioned sum in respect of Employment Costs as set out in Clause A21.10.5; and

11.10.4.4 to comply in all respects with its information and consultation obligations under TUPE and to provide to the Authority or Replacement Service Provider (as appropriate) such information as the Authority or Replacement Service Provider may request in order to verify such compliance.

11.10.5 The Parties agree that all Employment Costs in respect of the Re-Transferring Personnel will be allocated as follows:

11.10.5.1 the Service Provider will be responsible for any Employment Costs relating to the period up to the Further Transfer Date;

11.10.5.2 the Authority or (where appointed) any Replacement Service Provider will be responsible for the Employment Costs relating to the period on and after the Further Transfer Date,

and will if necessary be apportioned on a time basis (regardless of when such sums fall to be paid).

11.10.6 The Service Provider will indemnify and keep indemnified each of the Authority and any Replacement Service Provider from and against all Employment Liabilities which the Authority or the Replacement Service Provider incurs or suffers arising directly or indirectly out of or in connection with:

11.10.6.1 any failure by the Service Provider to comply with its obligations under this Clause 11.10;

11.10.6.2 any act or omission by or on behalf of the Service Provider (or its Sub-Contractors) in respect of the Re-Transferring Personnel whether occurring before on or after the Further Transfer Date;

11.10.6.3 any failure by the Service Provider (or its Sub-Contractors) to comply with Regulation 13 of TUPE (except to the extent that such failure arises from a failure by the Authority or the Replacement Service Provider to comply with Regulation 13 of TUPE);

11.10.6.4 any claim or demand by HMRC or any other statutory authority in respect of any financial obligation including but not limited to PAYE and national

insurance contributions in relation to any Re-Transferring Personnel to the extent that such claim or demand relates to the period from the Contract Commencement Date to the Further Transfer Date;

11.10.6.5 any claim or demand or other action taken against the Authority or any Replacement Service Provider by any person employed or engaged by the Service Provider (or its Sub-Contractors) (other than Re-Transferring Personnel included on the Final Staff List) who claims (whether correctly or not) that the Authority or Replacement Service Provider has inherited any liability from the Service Provider (or its Sub-Contractors) in respect of them by virtue of TUPE.

11.11 If TUPE does not apply on the expiry or termination of the Contract, the Service Provider will remain responsible for the Service Provider Personnel and will indemnify and keep indemnified the Authority against all Employment Liabilities which the Authority incurs or suffers arising directly or indirectly out of or in connection with the employment or termination of employment of any of the Service Provider Personnel or former Service Provider Personnel.

11.12 The Service Provider will procure that whenever the Authority so requires on reasonable notice at any time during the continuance in force of this Contract and for 2 years following the date of expiry or earlier termination of the Contract the Authority will be given reasonable access to and be allowed to consult with any person, consultant or employee who, at that time:

11.12.1 is still an employee or sub-contractor of the Service Provider or any of the Service Provider's associated companies; and

11.12.2 was at any time employed or engaged by the Service Provider in order to provide the Services to the Authority under this Contract,

and such access and consultation will be provided on the first occasion free of charge and thereafter be charged at reasonable rates for the time spent by the Service Provider or its employees or Sub-Contractors on such consultation. The Service Provider will use all reasonable endeavours to procure that such persons co-operate with the Authority's requests.

11.13 Clause 33.1 shall be amended so that benefits conferred on the Replacement Service Provider under this Clause 11 shall be enforceable by them.

**12. Sub-Contracting and Change of Ownership**

- 12.1 The Service Provider shall not assign or sub-contract all or any part of the Services without the prior written consent of the Authority, which may be refused or granted subject to such conditions as the Authority sees fit. For the avoidance of doubt any changes to the list of sub-contractors in Schedule 1 also require the prior written consent of the Authority.
- 12.2 Where the Service Provider sub-contracts all or any part of the Services to any person, the Service Provider shall:
- 12.2.1 ensure that such person is obliged to comply with all of the obligations and duties of the Service Provider under the Contract insofar as they relate to the Services or part of them (as the case may be) which that sub-contractor is required to provide;
  - 12.2.2 be responsible for payments to that person;
  - 12.2.3 remain solely responsible and liable to the Authority for any breach of the Contract or any performance, non-performance, part-performance or delay in performance of any of the Services by any sub-contractor to the same extent as if such breach, performance, non-performance, part-performance or delay in performance had been carried out by the Service Provider;
  - 12.2.4 without prejudice to the provisions of Clause 15, ensure compliance with the Bribery Act 2010 and any guidance issued by the Secretary of State under it when appointing any such sub-contractor;
  - 12.2.5 include a term in each sub-contract (of any tier):
    - 12.2.5.1 requiring payment to be made by the Service Provider or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, to the sub-contractor within a specified period not exceeding 30 days from receipt of a valid and undisputed invoice as defined by the sub-contract requirements;
    - 12.2.5.2 a requirement that any invoices for payment submitted by the sub-contractor are considered and verified by the Service Provider, or (in respect of a sub-contract below the first tier) the payer under the relevant sub-contract, in a timely manner and that any undue delay in doing so shall not in itself be sufficient justification for failing to treat an invoice as being valid and undisputed under the sub-contract requirements;

- 12.2.5.3 entitling the Service Provider or (in respect of a sub-contract below the first tier) the payer under the relevant subcontract to terminate that sub-contract if the relevant sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or labour law;
  - 12.2.5.4 a requirement that the sub-contractor includes a provision having the same effect as Clause 12.2.5.3 above in any sub-contract it awards;
  - 12.2.5.5 a provision restricting the ability of the sub-contractor to terminate the sub-contract without first informing the Authority and giving the Authority at least thirty (30) Business Days to discuss with the Service Provider any issues raised by the sub-contractor;
  - 12.2.5.6 a provision requiring the sub-contractor to notify the Authority promptly in writing of any material non-payment or late payment of any sums properly due to the sub-contractor from the Service Provider under the sub-contract, under a specified valid invoice and not subject to a genuine dispute. For the avoidance of doubt, the Authority shall have no liability whatsoever in respect of, or in connection with, any such material non-payment or late payment by the Service Provider to the sub-contractor;
  - 12.2.5.7 a provision requiring the sub-contractor to provide all reasonable co-operation and assistance to the Authority in connection with the monitoring of the performance of the Contract and/or the Services; and
  - 12.2.5.8 any other provision as notified by the Authority to the Service Provider from time to time; and
- 12.2.6 comply with any guidance and, or codes of practice issued by the Authority in relation to the fair and effective management of sub-contractors. Any breach by the Service Provider of this clause 12.2.6 shall be deemed a material breach for the purposes of clause 29.1.1 and shall entitle the Authority (at its absolute discretion) to exercise its rights under this clause.
- 12.3 The Service Provider shall give notice to the Authority within 10 Business Days where:
- 12.3.1 there is any change in the ownership of the Service Provider where such change relates to 50% or more of the issued share capital of the Service Provider; and

12.3.2 there is any change in the ownership of the Holding Company where such change relates to 50% or more of the issued share capital of the Holding Company; and

12.3.3 (in the case of an unincorporated Service Provider) give notice to the Authority if there is any change in the management personnel of the Service Provider, which alone or taken with any other change in management personnel not previously notified to the Authority, equates to a change in the identity of 50% or more of the management personnel of the Service Provider.

Upon the occurrence of any of the events referred to at Clauses 12.3.1 to 12.3.3 above, the Authority shall have the right to terminate the Contract.

**13. Conflict of Interest**

13.1 The Service Provider warrants that it does not and will not have at the Contract Commencement Date or Service Commencement Date any interest in any matter where there is or is reasonably likely to be a conflict of interest with the Services or any member of the Authority Group, save to the extent fully disclosed to and approved by the Authority.

13.2 The Service Provider shall check for any conflict of interest at regular intervals throughout the Term and in any event not less than once in every six months and shall notify the Authority in writing immediately upon becoming aware of any actual or potential conflict of interest with the Services or any member of the Authority Group and shall work with the Authority to do whatever is necessary (including the separation of staff working on, and data relating to, the Services from the matter in question) to manage such conflict to the Authority's satisfaction, provided that, where the Authority is not so satisfied, it may terminate the Contract in accordance with Clause 29.1.4.

**14. Access to Premises and Assets**

14.1 For the purpose of the delivery of this contract access to the Authority's premises or assets shall not be required.

**15. Compliance with Policies and Law**

15.1 The Service Provider, at no additional cost to the Authority:

15.1.1 undertakes to procure that all the Service Provider's Personnel comply with all of the Authority's policies and standards that are relevant to the performance of the Services, including the provisions set out in Schedule 5 and those relating to safety, safeguarding, security, business ethics, and any other regulations specified by the Authority. The Authority shall

provide the Service Provider with copies of such policies and standards on request;

- 15.1.2 shall provide the Services in compliance with and shall ensure that the Service Provider's Personnel comply with all requirements of all Acts of Parliament, statutory instruments, court orders, regulations, directives, European Community decisions (insofar as legally binding), bye-laws, treaties and other regulatory requirements relevant to either or both of the Service Provider's or the Authority's business, from time to time in force which are or may become applicable to the Services. The Service Provider shall promptly notify the Authority if the Service Provider is required to make any change to the Services for the purposes of complying with its obligations under this Clause 15.1.2;
- 15.1.3 without limiting the generality of Clause 15.1.2, shall comply with all relevant enactments in force from time to time relating to discrimination in employment and the promotion of equal opportunities;
- 15.1.4 acknowledges that the Authority is under a duty under section 149 of the Equality Act 2010 to have due regard to the need to eliminate unlawful discrimination on the grounds of sex, marital or civil partnership status, race, sexual orientation, religion or belief, age, pregnancy or maternity, gender reassignment or disability (a "**Relevant Protected Characteristic**") (as the case may be) and to promote equality of opportunity between persons who share a Relevant Protected Characteristic and persons who do not share it. In providing the Services, the Service Provider shall assist and cooperate with Authority where possible in satisfying this duty;
- 15.1.5 where possible, shall provide the Services in such a manner as to:
  - 15.1.5.1 promote equality of opportunity for all persons irrespective of their race, sex, disability, age, sexual orientation or religion;
  - 15.1.5.2 eliminate unlawful discrimination; and
  - 15.1.5.3 promote good relations between persons of different racial groups, religious beliefs and sexual orientation;
- 15.1.6 The Service Provider shall:
  - 15.1.6.2 obey directions from the Authority with regard to the conduct of the Contract in accordance with the duties referred to in Clauses 15.1.4 to 15.1.5;

- 15.1.6.3 assist, and consult and liaise with, the Authority with regard to any assessment of the impact on and relevance to the Contract of the duties referred to in Clauses 15.1.4 to 15.1.5;
- 15.1.6.4 on entering into any contract with a sub-contractor in relation to this Contract, impose obligations upon the sub-contractor to comply with this Clause 15.1.6 as if the sub-contractor were in the position of the Service Provider;
- 15.1.6.5 provide to the Authority, upon request, such evidence as the Authority may require for the purposes of determining whether the Service Provider has complied with this Clause 15.1.6 In particular, the Service Provider shall provide any evidence requested within such timescale as the Authority may require, and co-operate fully with the Authority during the course of the Authority's investigation of the Service Provider's compliance with its duties under this Clause 15.1.6; and
- 15.1.6.6 inform the Authority forthwith in writing should it become aware of any proceedings brought against it in connection with this Contract by any person for breach of the Equality Act 2010.
- 15.1.7 shall promptly notify the Service Provider's Personnel and the Authority of any health and safety hazards that exist or may arise in connection with the performance of the Services;
- 15.1.8 without limiting the generality of Clause 15.1.2, shall comply with the Bribery Act 2010 and any guidance issued by the Secretary of State under it; and
- 15.1.9 where applicable to the Service Provider and without limiting the generality of Clause 15.1.2, shall comply with the Modern Slavery Act 2015 and any guidance issued by the Secretary of State under it.

In all cases, the costs of compliance with this Clause 15.1 shall be borne by the Service Provider.

- 15.2 In providing the Services, the Service Provider shall have appropriate regard (insofar as the Service Provider's activities may impact on the environment) to the need to:

- 15.2.1 preserve and protect the environment and to the need to avoid, remedy and mitigate any adverse effects on the environment;

- 15.2.2 enhance the environment and have regard to the desirability of achieving sustainable development;
- 15.2.3 conserve and safeguard flora, fauna and geological or physiological features of special interest; and
- 15.2.4 sustain the potential of natural and physical resources and the need to safeguard the life-supporting capacity of air, water, soil and ecosystems.

### **15.3 London Living Wage**

- 15.3.1 For the purposes of this Clause 15.3, unless the context indicates otherwise, the expression “London Living Wage” means a basic hourly wage as updated from time to time by the GLA Economics Unit or any relevant replacement organisation and as notified to the Service Provider.
- 15.3.2 The Service Provider acknowledges and agrees that the Mayor of London pursuant to section 155 of the GLA Act has directed that members of the Authority Group ensure that the London Living Wage is paid to anyone engaged by any member of the Authority Group who is required to discharge contractual obligations in Greater London or on the Authority’s estate.
- 15.3.3 Without prejudice to any other provision of this Contract, the Service Provider shall:
  - 15.3.3.1 ensure that none of its employees engaged in the provision of the Services (in Greater London or on the Authority’s estate but not otherwise) is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage;
  - 15.3.3.2 ensure that none of its employees engaged in the provision of the Services is paid less than the amount to which they are entitled in their respective contracts of employment;
  - 15.3.3.3 provide to the Authority such information concerning the London Living Wage and as the Authority or its nominees may reasonably require from time to time;
  - 15.3.3.4 disseminate on behalf of the Authority to its employees engaged in the provision of the Services such perception questionnaires as the Authority may reasonably require from time to time and promptly collate and return to the Authority responses to such questionnaires; and
  - 15.3.3.5 co-operate and provide all reasonable assistance in monitoring the effect of the London Living Wage.



15.3.4 For the avoidance of doubt the Service Provider shall implement any updated London Living Wage on or before 1 April in the year following notification of such updated London Living Wage.

15.3.5 The Authority reserves the right to audit (acting by itself or its nominee(s)) the provision of the London Living Wage to the Service Provider's staff and the staff of its sub-contractors.

15.3.6 Any breach by the Service Provider of the provisions of this Clause 15.3 shall be treated as a material breach capable of remedy in accordance with Clause 29.1.1.

## **16. Corrupt Gifts and Payment of Commission**

The Service Provider shall not, and shall ensure that its employees, agents and sub-contractors do not, pay any commission, fees or grant any rebates to any employee, officer or agent of any member of the Authority Group nor favour any employee, officer or agent of any member of the Authority Group with gifts or entertainment of significant cost or value nor enter into any business arrangement with employees, officers or agents of any member of the Authority Group other than as a representative of the Authority, without the Authority's prior written approval.

## **17. Equipment**

17.1 Risk in all Service Provider Equipment shall be with the Service Provider at all times regardless of whether or not the Service Provider Equipment is located at Authority Premises.

17.2 The Service Provider shall ensure that all Service Provider Equipment meets all minimum safety standards required from time to time by law.

## **18. Quality and Best Value**

18.1 The Service Provider acknowledges that the Authority has a duty to obtain good value for money and as such the Authority is required to make arrangements to secure continuous improvements in the way it exercises its functions (having regard to a combination of economy, efficiency and effectiveness) and, as such, the Service Provider shall, where reasonably requested by the Authority, participate in any relevant best value review.

18.2 The Service Provider acknowledges that any best value review shall be conducted on an open-book accounting basis and agrees to provide any information reasonably requested by the Authority to support any best value review.

18.3 Where the GLA is the Authority then in accordance with the statutory requirement set out in section 61(3) of the Greater London Authority Act 1999, the Service Provider shall send such representatives as may be requested to attend the Greater London Assembly for questioning in

relation to the Contract. The Service Provider acknowledges that it may be liable to a fine or imprisonment if it fails to comply with a summons to attend.

## **19. Records, Audit and Inspection**

19.1 The Service Provider shall, and shall procure that its sub-contractors shall:

19.1.1 maintain a complete and correct set of records pertaining to all activities relating to the performance of the Services and the Service Provider's obligations under the Contract and all transactions entered into by the Service Provider for the purposes of the Contract (including time-sheets for the Service Provider's Personnel where such records are material to the calculation of the Fees) ("**Records**"); and

19.1.2 retain all Records during the Term and for a period of not less than 8 years (or such longer period as may be required by law), except Records containing Personal Data (as defined in section 1(1) of the Data Protection Act 1998) which shall only be retained for as long as necessary, following termination or expiry of the Contract ("**Retention Period**").

19.2 The Authority and any person nominated by the Authority has the right to audit any and all Records at any time during the Retention Period on giving to the Service Provider what the Authority considers to be reasonable notice (whether in writing or verbally) and at any reasonable time to inspect any aspect of the Service Provider's performance of the Services (including compliance with Clause 15.1) and the Service Provider shall give all reasonable assistance to the Authority or its nominee in conducting such inspection, including making available documents and staff for interview.

## **20. Set-Off**

All damages, costs, charges, expenses, debts, sums or other amounts owing (contingently or otherwise) to or incurred by the Authority arising out of or attributable to this Contract or any other contract between the Authority and the Service Provider may be deducted by the Authority from monies due or which may become due to the Service Provider under this Contract or under any other contract with any member of the Authority Group may recover such amount as a debt.

## **21. Liability and Indemnity**

21.1 Subject to Clause 21.2, the Service Provider shall indemnify and keep indemnified the Authority in full from and against all claims, proceedings, actions, damages, costs, expenses and any other liabilities which may arise out of, or in consequence of, the supply, or late or purported supply, of the Services or the performance or non-performance by the

Service Provider of its obligations under the Contract, including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Service Provider, or any other loss which is caused directly or indirectly by any act or omission of the Service Provider.

21.2 The Service Provider shall not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Authority or by breach by the Authority of its obligations under the Contract.

21.3 Subject to Clause 21.5, the liability of either Party for defaults whether arising from tort (including negligence), breach of contract or otherwise shall not exceed the total value of the Contract.

21.4 Subject to Clause 21.5, in no event shall either Party be liable to the other for:

21.4.1 any indirect, special or consequential loss or damage; or

21.4.2 any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).

21.5 Nothing in the Contract shall be construed to limit or exclude either Party's liability for:

21.5.1 death or personal injury caused by its negligence;

21.5.2 fraud or fraudulent misrepresentation;

21.5.3 any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982; and

21.5.4 any liability resulting from a breach of Clause 25 (Privacy, Data Protection and Cyber Security).

## **22. Insurance**

22.1 The Service Provider will at its sole cost maintain with adequate insurance coverage, policies of insurance with an insurance company of long-standing and good reputation in respect of:

22.1.1 public liability insurance; and

22.1.2 such other insurance as may be required in order to fulfil the conditions of this Contract including (without limitation) employers liability insurance.

22.2 The Service Provider will produce evidence to the Authority on reasonable request of the insurance policies set out in Clause 22.1 and payment of all premiums due on each policy.

22.3 The Service Provider warrants that nothing has or will be done or be omitted to be done which may result in any of the insurance policies set out in Clause 22.1 being or becoming void, voidable or unenforceable.

22.4 In the event that any of the Insurances are cancelled or not renewed, the Service Provider shall immediately notify the Authority and shall at its own cost arrange alternative Insurances with an insurer or insurers acceptable to the Authority.

## 23. **The Authority's Data**

23.1 The Service Provider acknowledges the Authority's ownership of Intellectual Property Rights which may subsist in the Authority's data. The Service Provider shall not delete or remove any copyright notices contained within or relating to the Authority's data.

23.2 The Service Provider and the Authority shall each take reasonable precautions (having regard to the nature of their other respective obligations under the Contract) to preserve the integrity of the Authority's data and to prevent any corruption or loss of the Authority's data.

## 24. **Intellectual Property Rights**

24.1 The Service Provider hereby assigns with full title guarantee to the Authority all Intellectual Property Rights in all documents, drawings, computer software and any other work prepared or developed by or on behalf of the Service Provider in the provision of the Services (the "**Products**") provided that such assignment shall not include items not prepared or developed for the purposes of this Contract.

24.2 The Service Provider shall provide the Authority with copies of all materials relied upon or referred to in the creation of the Products together with a perpetual, irrevocable, royalty-free and transferable licence free of charge to use such materials in connection with the use of the Products.

24.3 The Service Provider shall have no right (save where expressly permitted under the Contract or with the Authority's prior written consent) to use any trade marks, trade names, logos or other Intellectual Property Rights of the Authority.

24.4 The Service Provider shall ensure that all royalties, licence fees or similar expenses in respect of all Intellectual Property Rights used in connection with the Contract have been paid and are included within the Fees.

## 25. **Privacy, Data Protection and Cyber Security**

25.1 The Service Provider shall comply with all of its obligations under Data Protection Legislation and, where Processing Personal Data, shall only carry out such Processing for the purposes of providing the Services and in accordance with the Data Protection Legislation and the

provisions set out in Schedule 5 of this Contract. For the avoidance of doubt, any breach of this Clause 25.1, shall be deemed a material breach of the Contract for the purposes of Clause 29.1.1.

25.2 The Service Provider acknowledges that the Authority places great emphasis on the confidentiality, integrity and security of personal data and shall deliver the Services, and shall ensure that its sub-contractors deliver the Services, in line with ISO 27001/2.

25.3 In the event that the Service Provider does not hold current accreditation for ISO27001/2, then the Service Provider commits to achieving the ISO27001/2 standard within twelve (12) months of the start date of the Contract. The Service Provider shall also ensure that any sub-contractors that do not hold ISO27001/2 accreditation deliver the contract in line with the principles and standards of ISO27001/2.

## 26. **Confidentiality and Announcements**

26.1 Subject to Clause 27, the Service Provider will keep confidential:

26.1.1 the terms of this Contract; and

26.1.2 any and all Confidential Information that it may acquire in relation to the Authority.

26.2 The Service Provider will not use the Authority's Confidential Information for any purpose other than to perform its obligations under this Contract. The Service Provider will ensure that its officers and employees comply with the provisions of Clause 26.1.

26.3 The obligations on the Service Provider set out in Clause 26.1 will not apply to any Confidential Information:

26.3.1 which either of the Parties can demonstrate is in the public domain (other than as a result of a breach of this Clause 26); or

26.3.2 which a Party is required to disclose by order of a court of competent jurisdiction but then only to the extent of such required disclosure.

26.4 The Service Provider shall keep secure all materials containing any information in relation to the Contract and its performance.

26.5 The Service Provider shall not communicate with representatives of the general or technical press, radio, television or other communications media in relation to the existence of the Contract or that it is providing the Services to the Authority or in relation to any matter under or arising from the Contract unless specifically granted permission to do so in writing by the Authority. The Authority shall have the right to approve any announcement before it is made.

26.6 Neither Party shall refer to or use any business name or trade mark of the other Party in any promotional communications connected with the Contract without the prior written consent of the other Party, except where required by law.

26.7 The provisions of this Clause 26 will survive any termination of this Contract for a period of 8 years from termination.

## 27. **Freedom of Information and Transparency**

27.1 For the purposes of this Clause 27:

27.1.1 **“FOI Legislation”** means the Freedom of Information Act 2000, all regulations made under it and the Environmental Information Regulations 2004 and any amendment or re-enactment of any of them and any guidance or statutory codes of practice issued by the Information Commissioner, the Ministry of Justice or the Department for Environment Food and Rural Affairs (including in each case its successors or assigns) in relation to such legislation;

27.1.2 **“Information”** means information recorded in any form held by the Authority or by the Service Provider on behalf of the Authority; and

27.1.3 **“Information Access Request”** means a request for any Information under the FOI Legislation.

27.2 The Service Provider acknowledges that the Authority:

27.2.1 is subject to the FOI Legislation and agrees to assist and co-operate with the Authority to enable the Authority to comply with its obligations under the FOI Legislation; and

27.2.2 may be obliged under the FOI Legislation to disclose Information without consulting or obtaining consent from the Service Provider.

27.3 Without prejudice to the generality of Clause 27.2, the Service Provider shall and shall procure that its sub-contractors (if any) shall:

27.3.1 transfer to the Contract Manager (or such other person as may be notified by the Authority to the Service Provider) each Information Access Request relevant to the Contract, the Services or any member of the Authority Group that it or they (as the case may be) receive as soon as practicable and in any event within two (2) Business Days of receiving such Information Access Request; and

27.3.2 in relation to Information held by the Service Provider on behalf of the Authority, provide the Authority with details about and copies of all such Information (subject always to the provisions

of Clause 25.1) that the Authority requests and such details and copies shall be provided within five (5) Business Days of a request from the Authority (or such other period as the Authority may reasonably specify), and in such forms as the Authority may reasonably specify.

- 27.4 The Authority shall be responsible for determining whether Information is exempt from disclosure under the FOI Legislation and for determining what Information will be disclosed in response to an Information Access Request in accordance with the FOI Legislation.
- 27.5 The Service Provider shall not itself respond to any person making an Information Access Request, save to acknowledge receipt, unless expressly authorised to do so by the Authority.
- 27.6 The Service Provider acknowledges that the Authority is subject to the Transparency Commitment. Accordingly, notwithstanding Clause 26.1 and Clause 27, the Service Provider hereby gives its consent for the Authority to publish the Contract Information to the general public.
- 27.7 The Authority may in its absolute discretion redact all or part of the Contract Information prior to its publication. In so doing and in its absolute discretion the Authority may take account of the exemptions/exceptions that would be available in relation to information requested under the FOI Legislation.
- 27.8 The Authority may in its absolute discretion consult with the Service Provider regarding any redactions to the Contract Information to be published pursuant to Clause 27.6. The Authority shall make the final decision regarding both publication and redaction of the Contract Information.

## 28. **Dispute Resolution**

- 28.1 The Authority and the Service Provider shall use all reasonable endeavours to negotiate in good faith and settle any dispute or difference that may arise out of or relate to the Contract ("**Dispute**") before resorting to litigation.
- 28.2 If the Dispute is not settled through discussion between the Contract Manager and a representative of the Service Provider within a period of seven (7) Business Days of the date on which the Dispute arose, the Parties may refer the Dispute in writing to a director or chief executive (or equivalent) ("**Senior Personnel**") of each of the Parties for resolution.
- 28.3 If the Dispute is not resolved within 14 Business Days of referral to the Senior Personnel, the Parties shall attempt in good faith to resolve the Dispute through entry into a structured mediation or negotiation with the assistance of a mediator. Either Party may give notice to the other Party

(“**Notice**”) to commence such process and the Notice shall identify one or more proposed mediators.

- 28.4 If the Parties are unable to agree on a mediator, or if the agreed mediator is unable or unwilling to act within 28 Business Days of the service of the Notice, either Party may apply to the Centre for Effective Dispute Resolution (“**CEDR**”) in London to appoint a mediator. The costs of that mediator shall be divided equally between the Parties or as the Parties may otherwise agree in writing.
- 28.5 Where a dispute is referred to mediation under Clause 28.3, the Parties will attempt to settle such Dispute by mediation in accordance with the model mediation procedures published by CEDR or such other procedures as the mediator may recommend.
- 28.6 If the Parties reach agreement on the resolution of the Dispute, such agreement shall be recorded in writing and once signed by the Parties’ authorised representatives, shall be final and binding on the Parties.
- 28.7 If either Party refuses at any time to participate in the mediation procedure and in any event if the Parties fail to reach agreement on the Dispute within 40 Business Days of the service of the Notice either Party may commence proceedings in accordance with Clause 44.
- 28.8 For the avoidance of doubt, the Service Provider shall continue to provide the Services in accordance with the Contract and without delay or disruption while the Dispute is being resolved pursuant to this Clause 28.
- 28.9 Neither Party shall be prevented from, or delayed in, seeking any order for specific performance or for interim or final injunctive relief as a result of the provisions of this Clause 28 and Clause 28 shall not apply in respect of any circumstances where such remedies are sought.

## 29. **Breach and Termination of Contract**

- 29.1 Without prejudice to the Authority’s right to terminate at common law, the Authority may terminate the Contract immediately upon giving notice to the Service Provider if:

29.1.1 In addition and without prejudice to Clauses 29.1.2 to 29.1.6 (inclusive), the Service Provider has committed any material or persistent breach of the Contract and in the case of such a breach that is capable of remedy fails to remedy that breach within 10 Business Days (or such other timeframe as specified in writing by the Authority) from the date of written notice to the Service Provider giving details of the breach and requiring it to be remedied;

29.1.2 the Service Provider is subject to an Insolvency Event;



- 29.1.3 in the event that there is a change of ownership referred to in Clause 12.3 or the Service Provider is in breach of Clause 12.3;
  - 29.1.4 the Authority is not satisfied on the issue of any conflict of interest in accordance with Clause 13;
  - 29.1.5 the Service Provider or any of its officers, employees or agents commits any act of bribery described in the Bribery Act 2010; or
  - 29.1.6 the Service Provider commits any of the money laundering related offences listed in the Public Contracts Regulations 2015; or
  - 29.1.7 the Service Provider fails to comply in the performance of the Services with legal obligations in the fields of environmental, social or labour law.
- 29.2 Without prejudice to any of the Authority's other rights, powers or remedies (whether under the Contract or otherwise) if the Service Provider is in breach of any of its warranties, or obligations either under Clause 6 or any other provision of this Contract, the Service Provider shall, if required to do so by the Authority, promptly remedy and/or re-perform the Services or part of them at its own expense to ensure compliance with such warranties and obligations. Nothing in this Clause 29.2 shall prevent the Authority from procuring the provision of any Services or any remedial action in respect of any Services from an alternative contractor and, where the Authority so procures any Services or any remedial action, the Authority shall be entitled to recover from the Service Provider all additional cost, loss and expense incurred by the Authority and attributable to the Authority procuring such Services or remedial action from such alternative contractor.
- 29.3 Neither Party shall be deemed to be in breach of the Contract, or otherwise liable to the other Party in any manner whatsoever, for any failure or delay in performing its obligations under the Contract to the extent that such failure or delay is due to a Force Majeure Event. If a Force Majeure Event has continued for more than 8 weeks from the date on which that Force Majeure Event first arose and is having a material adverse effect on either Party's performance of its obligations under the Contract ("**the Affected Party**"), then for as long as such Force Majeure Event continues and has that effect, the Party not affected by such Force Majeure Event ("**Innocent Party**") may terminate the Contract immediately upon giving notice to the Affected Party. If the Contract is terminated in accordance with this Clause 29.3 then without prejudice to any rights and liabilities which accrued prior to termination the Affected Party shall not be liable to the Innocent Party by reason of such termination.
- 29.4 Without prejudice to the Authority's right to terminate the Contract under Clause 29.1 or to terminate at common law, the Authority may terminate the Contract at any time without cause subject to giving the Service

Provider written notice of the period specified in Schedule 1, provided that this Clause 29.4 may be disapplied by notice to that effect in Schedule 1.

29.5 Without prejudice to the Authority's right to terminate the Contract under Clauses 29.1, 29.4 or at common law, the Authority may terminate the Contract at any time following a Declaration of Ineffectiveness in accordance with the provisions of Clause 31.

29.6 To the extent that the Authority has a right to terminate the Contract under this Clause 29 then, as an alternative to termination, the Authority may by giving notice to the Service Provider require the Service Provider to provide part only of the Services with effect from the date specified in the Authority's notice ("**Change Date**") whereupon the provision of the remainder of the Services will cease and the definition of "the Services" shall be construed accordingly. The Fees applicable with effect from the Change Date will be adjusted proportionately or if in the Authority's opinion a proportionate adjustment would not be reasonable in such manner as the Authority may determine.

### 30. **Consequences of Termination or Expiry**

30.1 Notwithstanding the provisions of Clause 26, wherever the Authority chooses to put out to tender for a replacement service provider some or all of the Services, the Service Provider shall disclose to tenderers such information concerning the Services as the Authority may require for the purposes of such tender and shall also comply with all requirements as are set out at Schedule 6. The Service Provider may impose upon any recipient of such information such obligations of confidentiality as it may require.

30.2 The termination or expiry of the Contract shall not prejudice or affect any right, power or remedy which has accrued or shall accrue to either Party prior to or after such termination or expiry.

30.3 Upon expiry or termination of the Contract (howsoever caused):

30.3.1 the Service Provider shall, at no further cost to the Authority:

30.3.1.1 take all such steps as shall be necessary to agree with the Authority a plan for the orderly handover of Services to the Authority (or its nominee), such that the Services can be carried on with the minimum of interruption and inconvenience to the Authority and to effect such handover; and

30.3.1.2 on receipt of the Authority's written instructions to do so (but not otherwise), and subject always to the provisions of Clause 25.1, arrange to remove all electronically held information by a mutually agreed

date, including the purging of all disk-based information and the reformatting of all disks.

30.3.2 the Authority shall (subject to Clauses 20, 30.1 and 30.4 and the provisions of any security for due performance supplied by the Service Provider) pay the Service Provider any Fees remaining due in relation to any Services properly performed in accordance with the Contract up to the date of termination or expiry calculated so far as is possible in accordance with Schedule 4 or otherwise reasonably determined by the Authority.

30.4 On termination of all or any part of the Contract, the Authority may enter into any agreement with any third party or parties as the Authority thinks fit to provide any or all of the Services and (save where terminated under Clause 29.4) the Service Provider shall be liable for all additional expenditure reasonably incurred by the Authority in having such services carried out and all other costs and damages reasonably incurred by the Authority in consequence of such termination. The Authority may deduct such costs from the Fees or otherwise recover such costs from the Service Provider as a debt.

**31. Declaration of Ineffectiveness and Public Procurement Termination Event**

31.1 In the event that a court makes a Declaration of Ineffectiveness, the Authority shall promptly notify the Service Provider. The Parties agree that the provisions of Clause 30 and Clauses 31.1, 31.2, 31.4 to 31.6 (inclusive) and 31.12 shall apply as from the time when the Declaration of Ineffectiveness is made.

31.2 The Declaration of Ineffectiveness shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such Declaration of Ineffectiveness in respect of the period prior to the Declaration of Ineffectiveness, save as otherwise expressly provided to the contrary in Clauses 31.1 to 31.6 inclusive.

31.3 During any court proceedings seeking a Declaration of Ineffectiveness, the Authority may require the Service Provider to prepare a Cessation Plan in accordance with this Clause 31.3 by issuing a notice in writing. As from the date of receipt by the Service Provider of such notification from the Authority, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving:

31.3.1 an orderly and efficient cessation of the Services or (at the Authority's request) a transition of the Services to the Authority or such other entity as the Authority may specify; and

31.3.2 minimal disruption or inconvenience to the Authority or to customers of the Services or to public passenger transport services or facilities,

in accordance with the provisions of Clauses 31.2 to 31.6 (inclusive) and which the Parties agree would have effect in the event that a Declaration of Ineffectiveness is made.

31.4 Where there is any conflict or discrepancy between the provisions of Clause 30 and Clauses 31.2 to 31.6 (inclusive) and 31.12 or the Cessation Plan, the provisions of these Clauses 31.2 to 31.6 (inclusive) and 31.12 and the Cessation Plan shall prevail.

31.5 The Parties will comply with their respective obligations under the Cessation Plan (as agreed by the Parties or, where agreement cannot be reached, as reasonably determined by the Authority) in the event that a Declaration of Ineffectiveness is made.

31.6 The Authority shall pay the Services Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Fees agreed as part of this Contract or as otherwise reasonably determined by the Authority. Provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract pursuant to any Declaration of Ineffectiveness.

31.7 Without prejudice to the Authority's rights of termination implied into the Contract by Regulation 73(3) of the Public Contracts Regulations 2015 or Regulation 89(3) of the Utilities Contracts Regulations 2016, in the event that the Authority exercises its right to terminate pursuant to this Clause 31.7 (a "Public Procurement Termination Event"), the Authority shall promptly notify the Service Provider and the Parties agree that:

31.7.1 the provisions of Clause 30 and these Clauses 31.7 to 31.12 (inclusive) shall apply as from the date of receipt by the Service Provider of the notification of the Public Procurement Termination Event; and

31.7.2 if there is any conflict or discrepancy between the provisions of Clause 30 and these Clauses 31.7 to 31.12 or the Cessation Plan, the provisions of these Clauses 31.7 to 31.12 and the Cessation Plan shall prevail.

31.8 Termination on the Public Procurement Termination Grounds shall not prejudice or affect any right, liability or remedy which has accrued or shall accrue to either Party prior to or after such termination on Public Procurement Termination Grounds, in respect of the period prior to such termination, save as otherwise expressly provided in Clauses 31.7 to 31.11 inclusive.

31.9 As from the date of receipt by the Service Provider of the notification of the termination on Public Procurement Termination Grounds, the Parties (acting reasonably and in good faith) shall agree or, in the absence of such agreement, the Authority shall reasonably determine an appropriate Cessation Plan with the object of achieving:

31.9.1 an orderly and efficient cessation or (at the Authority's election) a transition to the Authority or such other entity as the Authority may specify of: (i) the Services; or (at Authority's election), (ii) the part of the Services which are affected by the Public Procurement Termination Grounds; and

31.9.2 minimal disruption or inconvenience to the Authority or to customers of the Services,

in accordance with the provisions of these Clauses 31.7 to 31.11 (inclusive) and to take account of the circumstances of the Public Procurement Termination Grounds.

31.10 Upon agreement, or determination by the Authority, of the Cessation Plan the Parties will comply with their respective obligations under the Cessation Plan.

31.11 The Authority shall pay the Service Provider's reasonable costs in assisting the Authority in preparing, agreeing and complying with the Cessation Plan. Such costs shall be based on any comparable costs or Fees agreed as part of this Contract or as otherwise reasonably determined by the Authority, provided that the Authority shall not be liable to the Service Provider for any loss of profit, revenue, goodwill or loss of opportunity as a result of the early termination of this Contract as a result of Public Procurement Termination Grounds.

31.12 For the avoidance of doubt, the provisions of this Clause 31 (and applicable definitions) shall survive any termination of the Contract following a Declaration of Ineffectiveness or termination on Public Procurement Termination Grounds.

## **32. Survival**

32.1 The provisions of Clauses 1, 3.1.3, 4, 5, 7.1.4, 9.1, 12.2.2, 12.2.3, 17, 19 to 23 (inclusive), 24.2, 25 to 28 (inclusive), 30, 31 to 34 (inclusive), 36 to 44 (inclusive) and any other Clauses or Schedules that are necessary to give effect to those Clauses shall survive termination or expiry of the Contract. In addition, any other provision of the Contract which by its nature or implication is required to survive the termination or expiry of the Contract shall do so.

## **33. Rights of Third Parties**

33.1 Save that any member of the Authority Group has the right to enforce the terms of the Contract in accordance with the Contracts (Rights of

Third Parties) Act 1999 (“**Third Party Act**”), the Parties do not intend that any of the terms of the Contract will be enforceable by virtue of the Third Party Act by any person not a party to it.

- 33.2 Notwithstanding Clause 33.1, the Parties are entitled to vary or rescind the Contract without the consent of any other person including any member of the Authority Group.

#### **34. Contract Variation**

- 34.1 Save where the Authority may require an amendment to the Services, the Contract may only be varied or amended with the written agreement of both Parties. The details of any variations or amendments shall be set out in such form as the Authority may dictate and shall not be binding upon the Parties unless completed in accordance with such form of variation.

#### **35. Novation**

- 35.1 The Authority may novate or otherwise transfer the Contract (in whole or in part).
- 35.2 Within 10 Business Days of a written request from the Authority, the Service Provider shall at its expense execute such agreement as the Authority may reasonably require to give effect to any such transfer all or part of its rights and obligations under the Contract to one or more persons nominated by the Authority.
- 35.3 Subject to Clause 10, the Contract is personal to the Service Provider who shall not assign the benefit or delegate the burden of the Contract or otherwise transfer any right or obligation under the Contract without the prior written consent of the Authority.

#### **36. Non-Waiver of Rights**

- 36.1 No waiver of any of the provisions of the Contract is effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with the provisions of Clause 38. The single or partial exercise of any right, power or remedy under the Contract shall not in any circumstances preclude any other or further exercise of it or the exercise of any other such right, power or remedy.

#### **37. Illegality and Severability**

- 37.1 If any provision of the Contract (in whole or in part) is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed from the Contract and the remaining provisions shall continue in full force and effect as if the Contract had been executed without the invalid, illegal, or unenforceable provision. In the event that in the Authority’s reasonable opinion such a provision is so fundamental as to prevent the accomplishment of the purpose of the

Contract, the Authority and the Service Provider shall immediately commence good faith negotiations to remedy such invalidity.

**38. Business Continuity**

- 38.1 The Service Provider shall, at all times, ensure that it has appropriate business continuity arrangements in place for the delivery of the Services.
- 38.2 Within twenty (20) Business Days of the Contract Commencement Date (or such other period as notified by the Authority to the Service Provider), the Service Provider shall submit a draft Business Continuity and Disaster Recovery Plan to the Authority.
- 38.3 The Authority shall either approve the draft Business Continuity and Disaster Recovery Plan within twenty (20) Business Days (or such other period as notified by the Authority to the Service Provider), of its receipt pursuant to Clause 38.2 (such approval not to be unreasonably withheld), or it shall inform the Service Provider why it cannot accept the draft Business Continuity and Disaster Recovery Plan. In such circumstances, the Service Provider shall address all such concerns in a revised draft Business Continuity and Disaster Recovery Plan, which it shall submit to the Authority within ten (10) Working Days (or such other period as notified by the Authority to the Service Provider) of its receipt of the Authority's comments. If no such notice is given, the Service Provider's draft Business Continuity and Disaster Recovery Plan shall be deemed to be agreed.
- 38.4 If a Business Continuity and Disaster Recovery Plan is agreed, the Service Provider shall ensure that it is able to implement the Business Continuity and Disaster Recovery Plan at any time in accordance with its terms and, at the Authority's written request, the Service Provider shall provide the Authority with evidence to demonstrate its compliance with the obligations set out in this Clause 38.
- 38.5 The Service Provider shall undertake regular risk assessments in relation to the provision of the Services and all contingency arrangements at least annually and shall provide the results of, and any recommendations in relation to, those risk assessments to the Authority promptly in writing following each review.
- 38.6 In the event of a loss of service, the Service Provider shall immediately invoke the Business Continuity and Disaster Recovery Plan (and shall inform the Authority immediately of such invocation). In all other instances the Service Provider shall only invoke or test the Business Continuity and Disaster Recovery Plan with the approval of the Authority.

**39. Notices**

39.1 Any notice, demand or communication in connection with this Contract will be in writing and may be delivered by hand, prepaid recorded delivery first class post or facsimile addressed to the recipient at its registered office, the address stated in Schedule 1 or any other address (including a facsimile number) notified to the other Party in writing in accordance with this Clause as an address to which notices, invoices and other documents may be sent. The notice, demand or communication will be deemed to have been duly served:

39.1.1 if delivered by hand, at the time of delivery;

39.1.2 if delivered by post, two (2) Business Days after being posted or in the case of Airmail 14 Business Days after being posted; or

39.1.3 if delivered by facsimile, at the time of transmission, provided that a confirming copy is sent by first class post to the other Party within 24 hours after transmission.

**40. Entire Agreement**

40.1 Subject to Clause 40.2:

40.1.1 the Contract and all documents referred to in the Contract, contains all of the terms which the Parties have agreed relating to the subject matter of the Contract and such documents and supersedes and extinguishes any prior drafts, agreements, undertakings, representations, warranties and arrangements of any nature whatsoever, whether or not in writing relating to the provision of the Services. Neither Party has been induced to enter into the Contract by a statement which the Contract does not contain; and

40.1.2 without prejudice to the Service Provider's obligations under the Contract, the Service Provider is responsible for and shall make no claim against the Authority in respect of any misunderstanding affecting the basis of the Service Provider's tender in respect of the Contract or any incorrect or incomplete information howsoever obtained.

40.2 Nothing in this Clause 40 excludes any liability which one Party would otherwise have in respect of any statement it has made fraudulently to the other Party.

**41. Counterparts**

41.1 This Contract may be executed in any number of counterparts or duplicates, each of which shall be an original, and such counterparts or duplicates shall together constitute one and the same agreement.



42. **Relationship of the Parties**

- 42.1 Nothing in the Contract constitutes, or shall be deemed to constitute, a partnership between the Parties. Except as expressly provided in the Contract, neither Party shall be deemed to be the agent of the other, nor shall either Party hold itself out as the agent of the other.

43. **Further Assurance**

- 43.1 Each Party will do or procure the doing of all acts and things and execute or procure the execution of all such documents as the other Party reasonably considers necessary to give full effect to the provisions of the Contract.

44. **Governing Law**

- 44.1 The Contract shall be governed by and construed in accordance with the law of England and Wales. Without prejudice to Clause 25, the courts of England will have exclusive jurisdiction to settle any dispute which may arise out of or in connection with the Contract provided that the Authority has the right in its absolute discretion to enforce a judgment and take proceedings in any other jurisdiction in which the Service Provider is incorporated or in which any assets of the Service Provider may be situated. The Parties agree irrevocably to submit to that jurisdiction.

**THE CONTRACT** has been signed for and on behalf of the Parties the day and year written above.

Signed by	)	
for and on behalf of	)	
<b>the Authority</b>	)	
	Signature	Print name and position
		Date:

Signed by	)	
for and on behalf of	)	
<b>the Service Provider</b>	)	
	Signature	Print name and position
		Date:

## **SCHEDULE 1 - KEY CONTRACT INFORMATION**

- 1. Contract Reference Number:** GLA81185
- 2. Name of Service Provider:** Victim Support
- 3. Commencement:**
  - (a) Contract Commencement Date:** 1<sup>st</sup> April 2019, or date Contract is signed if earlier
  - (b) Service Commencement Date:** 1<sup>st</sup> April 2019
- 4. Duration/Expiry Date:** 31<sup>st</sup> March 2021

**Address where invoices shall be sent:** Mayor's Office for Policing & Crime  
Purchase to Pay  
c/o SSCL Police Services  
PO Box 14077  
Newport  
Gwent  
NP10 8FZ

All invoices should be sent by email to: [SSCL.MPS.AP@sscl.gse.gov.uk](mailto:SSCL.MPS.AP@sscl.gse.gov.uk), copying in the contact advised by the Authority.

**Electronic format required (if any) for submission of invoices by the Service Provider:**

### **5. Details of the Authority's Contract Manager**

**Name:**

**Address:** Mayor's Office for Policing and Crime  
2<sup>nd</sup> Floor, City Hall  
The Queen's Walk  
London  
SE1 2AA

**Tel:** 020 7983 4000

**Email:**

**6. Details of the Authority's Procurement Manager**

**Name:** as above  
**Address:** as above  
**Tel:** as above  
**Email:** as above

**7. Service Provider's Key Personnel:**

Name & Position	Contact Details	Area of Responsibility
	Victim Support 2nd Floor, Octavia House 50 Banner Street London EC1Y 8ST	

**8. Notice period in accordance with Clause 29.4 (termination without cause):**

90 calendar days

**9. Address for service of notices and other documents in accordance with Clause 39:**

**For the Authority:**

For the attention of:

Mayor's Office for Policing and Crime  
2<sup>nd</sup> Floor, City Hall  
The Queen's Walk  
London  
SE1 2AA

## **SCHEDULE 2 - SPECIFICATION**

1. This Schedule incorporates the contents of the final version of the Services specification issued to bidders during the tender process, inserted below:



VOLUME 2 IWWS  
Specification V2.pdf

2. The Service Provider shall be required to deliver the Services in line with the requirements set out in this specification.
3. Any changes to these requirements must be agreed in writing between the Parties.

### **SCHEDULE 3 – THE TENDER**

This Schedule incorporates the tender documentation submitted by the Service Provider to the Authority on 3<sup>rd</sup> December 2018 including the Technical Submission and all its Annexes and the final, updated Pricing Proposal submitted to the Authority on 9<sup>th</sup> January 2019.

## **SCHEDULE 4 – MONITORING AND PAYMENTS**

### **1. Reviewing Contract Performance**

- 1.1 The Service Provider shall work with the Authority to establish and maintain an effective and beneficial working relationship and to ensure that delivery of the Services at least meets or exceeds the Key Performance Indicators and Performance Indicators.
- 1.2 The Service Provider shall work with the Authority to establish suitable administrative arrangements for the effective management and performance monitoring of the Contract.
- 1.3 The Authority will regularly monitor and review the performance and quality of the Service Provider's delivery against the requirements set out in the Contract. Service Provider reviews may be undertaken formally or informally. The Service Provider will be responsible for managing and reporting on any sub-contractual arrangements. The Service Provider will be expected to provide any additional management information required by the Authority to facilitate contract reviews and arrange where necessary access to any of its delivery locations, including those operated by sub-contractors.
- 1.4 The purpose of the Service Provider performance reviews is to encourage an open and regular dialogue between the Parties with the purpose of ensuring that the Services are being delivered appropriately and to drive up the performance and quality of the Services. The Parties shall use the reviews to discuss performance and opportunities for continuous improvement and to raise and address any complaints or persistent problems encountered with the Contract.
- 1.5 Where opportunities for continuous improvement or to improve performance are identified they shall be recorded in a performance improvement plan and the Service Provider shall implement them within a reasonable time period.
- 1.6 Where quality falls below acceptable levels the Service Provider will be expected to have suitable escalation procedures in place and, in respect of sub-contracted Services, take action where necessary to terminate the sub-contract.
- 1.7 The regular meetings between the Authority and the Service Provider shall also cover, as appropriate, resolving disputes and/or dealing with contractual breaches in accordance with the terms and conditions of the Contract.
- 1.8 The Authority shall provide further guidance to the Service Provider relating to the detailed arrangements for the performance monitoring and management of the Contract prior to the Service Commencement Date and any updates and changes to these arrangements from time to time as required throughout the life of the Contract.

**2. Fees and Payments:**

2.1 The Authority shall pay the Fees to the Service Provider in accordance with the provisions of Clauses 4 and 5 and this Schedule 4.

2.2 Subject to the provisions of this Contract, the Fees are fixed and unless otherwise agreed in accordance with Clause 34 any additional or unforeseen costs incurred by the Service Provider in delivering the Services shall be borne solely by the Service Provider.

**2.3 Types of Payment:**

**2.3.1 Start Fee:**

2.3.1.1 The Service Provider is entitled to a Start Fee payment which is calculated at a value of 5% of the total year 1 value of the Contract;

2.3.1.2 the Authority shall pay the Start Fee to the Service Provider in two equal instalments, as per Annex 1 (Payment Profile) to this Schedule;

2.3.1.3 the Service Provider shall be entitled to submit an invoice for the first instalment of the Start Fee following the Contract Commencement Date, and shall be entitled to submit an invoice for the final instalment of the Start Fee following the Service Commencement Date.

**2.3.2 Service Fee:**

2.3.2.1 The Authority shall pay Service Fee payments to the Service Provider in twelve (12) equal instalments monthly in arrears.

2.3.2.2 In year 1 of the Contract, the Service Fee payments shall be worth 70% of the total year 1 value of the Contract, and in year 2 the Service Fee payments shall be worth 75% of the total year 2 value of the Contract.

2.3.2.3 The Service Provider shall be required to submit a monitoring return monthly, in line with the timescales set by the Authority, to demonstrate compliance with and performance against the Performance Indicators, prior to submitting an invoice for payment in line with the provisions of Clause 5 and this Schedule 4.

**2.3.3 Outcome Payments:**

2.3.3.1 The Authority shall pay the Outcome Payments to the Service Provider in four (4) instalments quarterly in arrears.



- 2.3.3.2 The Outcome Payments shall be worth a maximum of 25% of the total annual value of the Contract.
- 2.3.3.3 The amount of the Outcome Payment that will be paid to the Service Provider in each quarter will be dependent on the Authority's assessment of their performance against the Key Performance Indicators. For the avoidance of doubt, if the Service Provider does not meet all of the Key Performance Indicators in a quarter, they will not be entitled to receive 100% of the Outcome Payment.
- 2.3.3.4 The Service Provider shall be required to submit a monitoring return quarterly, in line with the timescales set by the Authority, to evidence their performance against the Key Performance Indicators, prior to submitting an invoice for payment in line with the provisions of Clause 5 and this Schedule 4.

## 2.4 Final Payments

- 2.4.1 Provided all previous payments have been paid (and subject to the provisions of this Contract and any antecedent breach), the Authority shall have no further liability to make payment of any kind to the Service Provider once the final payments have been paid.

## Annex 1 – Payment Profile

1. The Service Provider shall be paid the amounts set out in the table below, in line with the provisions of Schedule 4, paragraph 2.3.
2. The total contract value is: £15,353,600, and the total annual contract value for both of years 1 and 2 is: £7,676,800.

<b>Payment Type</b>	<b>Terms</b>	<b>Individual Payment Amount</b>	<b>Total Annual Value of Fee</b>
<b>Start Fee (Year 1 only)</b>	To be paid out in 2 equal instalments; in line with paragraph 2.3.1	£191,920	£383,840
<b>Service Fee (Year 1)</b>	To be paid out monthly in arrears in 12 equal instalments, in line with paragraph 2.3.2	£447,813.33	£5,373,760
<b>Service Fee (Year 2)</b>	To be paid out monthly in arrears in 12 equal instalments, in line with paragraph 2.3.2	£479,800	£5,757,600
<b>Outcome Payments</b>	To be paid out in 4 instalments quarterly in arrears, in line with paragraph 2.3.3	Up to a maximum of: £479,800	Up to a maximum of: £1,919,200

## Annex 2 – Key Performance Indicators and Performance Indicators

### 1. Key Performance Indicators

- 1.1 The Service Provider's performance in its delivery of the Services shall be measured quarterly against the Key Performance Indicators (KPIs) set out in the table below.
- 1.2 The Authority acknowledges that, due to the nature of the Services, not all the KPIs can be assessed from the start of the Contract and therefore some KPIs will begin to be assessed at different points.
- 1.3 The Authority also acknowledges that data will need to be collected for some KPIs before baseline and improvement targets can be identified and agreed, due to the introduction of new requirements within the Specification. The Service Provider shall support the Authority in collecting data to enable the Authority to identify these targets.

Outcome Description	Measurement	Frequency	Target
More victims and vulnerable and intimidated witnesses accessing the service	<ul style="list-style-type: none"> <li>Victim and vulnerable and intimidated witness referral and self-referral levels are maintained or increased</li> <li>Percentage of people referred who take up the service</li> </ul>	Quarterly <ul style="list-style-type: none"> <li>from the first quarter</li> </ul>	<ul style="list-style-type: none"> <li>Referrals remain at least at baseline levels, or increase (baseline defined as average quarterly referrals in 18/19)</li> <li>Percentage of those with additional support needs (EE/VIW) who take up the service increases</li> </ul>
Ensure the service is equally accessible to all demographic groups in London	Engagement levels with the service across different groups reflect the demographics of victims and witnesses in London	Quarterly <ul style="list-style-type: none"> <li>from the first quarter</li> </ul>	<ul style="list-style-type: none"> <li>Referral source (e.g. prosecution and defence)</li> <li>Engagement levels with the service reflect the relevant demographics</li> <li>Actions in place to address underrepresentation of individual groups</li> </ul>
High quality of service delivered to victims and witnesses	<ul style="list-style-type: none"> <li>Percentage of service users (from all referral sources) contacted within 72 hours from referral</li> <li>Percentage of service users who have completed an initial needs assessment within 24 hours of contact being made</li> <li>Percentage of service users allocated a named</li> </ul>	Quarterly <ul style="list-style-type: none"> <li>from the second quarter</li> </ul>	<p><i>Data will be collected in quarter 1 to identify the baseline rates and an improvement target will then be identified for quarter 2 onwards.</i></p> <p><i>Key data to be collected in a user satisfaction survey to be agreed with the Service Provider during quarter 1.</i></p>

Outcome Description	Measurement	Frequency	Target
	<p>caseworker within 24 hours of initial needs assessment being completed</p> <ul style="list-style-type: none"> <li>Support plans agreed and in place for service users with enhanced needs within agreed timescales</li> <li>User satisfaction survey</li> </ul>		
Victims better able to cope & recover	<p>Victims and witnesses demonstrate improvement in the key categories of need identified at needs assessment.</p> <p>Key categories are:</p> <ul style="list-style-type: none"> <li>better informed about how to cope with the impact of crime;</li> <li>health &amp; well-being;</li> <li>feeling safe; and</li> <li>ability to manage aspects of everyday life</li> </ul>	<p>Quarterly</p> <ul style="list-style-type: none"> <li>from the second quarter</li> </ul>	At least 95% of victims state improvements in at least one of the 4 categories.
Witnesses able to give their best evidence	<p>Percentage of witnesses referred to the service who attend court and give evidence</p> <p><b>Note:</b> wording may change following feedback from judiciary on defining appropriate measurement</p>	<p>Quarterly</p> <ul style="list-style-type: none"> <li>from year 2</li> </ul>	<i>Data will be collected in year 1 to identify the baseline rates and an improvement target will then be identified for year 2</i>
Improved support for priority target groups	<p>Increase in the proportion of victims and witnesses receiving support from the service who come from the priority target groups</p> <p>Priority groups are:</p> <ul style="list-style-type: none"> <li>Victims with Enhanced Entitlements under VCoP</li> <li>Vulnerable and intimidated witnesses</li> <li>Victims who are repeat victims of crime</li> </ul>	<p>Quarterly</p> <ul style="list-style-type: none"> <li>from year 2</li> </ul>	<i>Data will be collected in year 1 to identify the baseline rates and an improvement target will then be identified for year 2</i>
More victims and witnesses receiving VCoP & WC entitlements	<p>Increase in the proportion of victims and witnesses who are receiving their VCoP &amp; WC entitlements (<i>note: those within the control of the service</i>)</p>	<p>Quarterly</p> <ul style="list-style-type: none"> <li>from year 2</li> </ul>	<i>Data will be collected in year 1 to identify the baseline rates and an improvement target will then be identified for year 2</i>
Effective and meaningful engagement with	<ul style="list-style-type: none"> <li>feedback from LAs on how provider is working with local DA services</li> </ul>	Quarterly	<i>To be discussed and agreed with the provider during mobilisation, once</i>

Outcome Description	Measurement	Frequency	Target
London partners to support the successful delivery of the service	<ul style="list-style-type: none"> <li>feedback from MPS on how service is engaging with WCUs and others as necessary</li> <li>effective referral arrangements in place with statutory agencies and other key London partners</li> </ul>	<ul style="list-style-type: none"> <li>from the second quarter</li> </ul>	<i>further discussions have taken place with key London partners on the detailed operational arrangements.</i>

## 2. Performance Indicators

- 2.1 The Service Provider's performance in the delivery of the Services shall also be measured against a number of Performance Indicators which reflect those service standards in the Specification that the Authority, acting reasonably, deems to be key to the effective delivery of the Services.
- 2.2 These shall be as specified in the monthly reporting template provided by the Authority, in line with the terms of Schedule 4, Annex 3.

## **Annex 3 – Monitoring and Reporting Process**

### **1. Reporting Requirements and Format**

- 1.1 The Service Provider shall be required to submit monthly and quarterly returns to demonstrate their performance against the Key Performance Indicators and Performance Indicators in line with the timescales set by the Authority.
- 1.2 The Service Provider shall be required to submit a monthly report consisting of the core data that the Authority requires to monitor delivery of the Services, and performance against the Performance Indicators.
- 1.3 The Service Provider shall be required to submit a more detailed quarterly report to enable the Authority to complete a full assessment of the performance of the Service against the Key Performance Indicators listed in Annex 2 above. The quarterly reports shall also include, but not be limited to, equalities information to enable the Authority to effectively monitor the diversity and reach of the Services.
- 1.4 The Service Provider shall be required to submit their monthly and quarterly monitoring returns using the template provided and in the format specified by the Authority.
- 1.5 The Service Provider shall support the Authority with the collection of additional data, as required, to enable the Authority to identify and agree baseline and improvement targets for the Key Performance Indicators where required, in line with paragraph 1 of Schedule 4, Annex 2.
- 1.6 The Service Provider acknowledges and accepts that reporting requirements may change over the life of the Contract and shall support the Authority in responding to any changes which the Authority, acting reasonably, requests to reporting requirements and formats. The Authority shall provide the Service Provider with reasonable notice of any changes to reporting requirements and, or formats to enable the Service Provider to make any required changes to its systems.

### **2. Programme Evaluation**

- 2.1 In line with paragraph 2.3 of Schedule 5, the Service Provider acknowledges and accepts that it may be required to disclose information in addition to that required elsewhere in this Schedule 4 to support programme evaluation.
- 2.2 The Service Provider shall support the Authority by providing the information requested, and the Authority shall give the Service Provider reasonable notice of this request.

## **SCHEDULE 5 - CONTRACT COMPLIANCE AND QUALITY CONSIDERATIONS**

### **1. General**

- 1.1 The Authority shall, prior to the Service Commencement Date and from time to time throughout the life of the Contract, issue instructions and guidance as necessary to the Service Provider on processes and recommended practices, including any instructions of an operational nature, and/or relating to compliance with policies and law, including but not limited to those referenced in Clause 15.

### **2. Privacy and Data Protection**

- 2.1 Pursuant to Clause 25.1, the Service Provider acknowledges that it:
- 2.1.1 is the data controller for the Services and is required to complete a Data Protection Impact Assessment (DPIA) for the delivery of the Services to identify, minimise and reduce risks to data subjects where the Services use personally identifiable data for members of the public (a DPIA is not required where the data is from professionals);
  - 2.1.2 must only act on the written instructions of MOPAC (unless required by law to act without);
  - 2.1.3 must ensure that people Processing the Personal Data are subject to a duty of confidence;
  - 2.1.4 must take appropriate measures to ensure the security of Processing;
  - 2.1.5 must only engage a processor or sub-processor with the prior consent of MOPAC and a written contract;
  - 2.1.6 must provide subject access and allow data subjects to exercise their rights under the GDPR;
  - 2.1.7 must meet its GDPR obligations in relation to the security of Processing the notification of Personal Data breaches and data protection impact assessments and notify any Personal Data breaches to MOPAC within 24 hours of becoming aware;
  - 2.1.8 must submit to audits and inspections, provide MOPAC with whatever information it needs to ensure that they are both meeting their Article 28 obligations and tell MOPAC immediately if it is asked to do something infringing the Data Protection Legislation or other data protections law of the EU or a member state;
  - 2.1.9 must keep records of its processing activities;
  - 2.1.10 employ a data protection officer if required;
  - 2.1.11 co-operate with supervisory authorities (such as the ICO); and

2.1.12 appoint (in writing) a representative within the European Union if required.

2.2 The Service Provider acknowledges that:

2.2.1 it may be subject to investigative and corrective powers of supervisory authorities (such as the ICO) under Article 58 of the GDPR;

2.2.2 if it fails to meet its obligations, it may be subject to an administrative fine under Article 83 of the GDPR;

2.2.3 if it fails to meet its GDPR obligations it may be subject to a penalty under Article 84 of the GDPR; and

2.2.4 if it fails to meet its GDPR obligations it may have to pay compensation under Article 82 of the GDPR.

2.3 The Service Provider acknowledges that:

2.3.1 the Authority is the data controller for the purposes of programme evaluation and it shall complete a Data Protection Impact Assessment for the programme evaluation to identify and minimise risks to data subjects;

2.3.2 the Service Provider is required to make a secure disclosure of information, including personally identifiable information, to support the programme evaluation, and that the Authority will take a data minimisation approach to defining the information it requires; and

2.3.3 the Service Provider is required to document this disclosure requirement in all privacy and transparency information provided to service users.

### **3. Compliance with Policies and Industry Good Practice**

3.1 The Service Provider shall ensure that it delivers the Services in line with what is recognised as industry good practice and the requirements set out in this paragraph 3.

3.2 The Service Provider shall ensure that all staff and volunteers are appropriately trained and receive the appropriate ongoing continuing professional development support, to ensure they meet minimum competency standards. This training shall include, but shall not be limited to:

3.2.1 ensuring all caseworkers are suitably trained and qualified, including receiving specific training to identify domestic abuse risks and on restorative approaches;

3.2.2 ensuring all staff involved in the delivery of specialist support for victims of domestic violence are SafeLives or Women's Aid accredited or are working towards achieving accreditation within 6 months of their date of employment;



- 3.2.3 ensuring all staff and volunteers receive appropriate training regarding ensuring the integrity of the evidence in relation to support provided to witnesses; and
  - 3.2.4 providing major incident response training to staff and volunteers to ensure they have the knowledge and skills to provide humanitarian assistance in the event of a major incident.
- 3.3 The Service Provider shall ensure that all staff and volunteers involved in the delivery of the Services are appropriately vetted prior to working on the Services in any capacity, and the Authority acknowledges that the level of vetting is dependent on the role that each member of staff holds.
- 3.4 The Service Provider shall, in the delivery of restorative justice services, ensure that:
  - 3.4.1 delivery of all restorative justice services adheres to the guidance of the Restorative Justice Council; and
  - 3.4.2 it is or is working with sub-contractors in possession of, or working towards, the Restorative Service Quality Mark (RSQM).
- 3.5 The Service Provider shall identify lead staff member(s) for safeguarding for the Services who shall receive specialist training in accordance with the London Safeguarding Children Board. They shall also be expected to undertake vulnerable adults training if provided in their locality. The Service Provider shall cooperate with the London Safeguarding Children Board and London Safeguarding Adults Board and adhere to relevant child protection procedures and conduct relevant security checks. The Service Provider shall engage in serious case reviews and domestic homicide reviews as required.
- 3.6 The Service Provider shall ensure that policies for risk-reporting and whistle-blowing are in place for incidents that arise causing harm or potential harm to victims, witnesses, staff or volunteers. There is a duty on the Service Provider to inform MOPAC of anything which comes to light which might impact on the Services or on victims and witnesses in London.

## **SCHEDULE 6 – RE-TENDER COOPERATION AND EXIT PLANNING**

### **1. Exit Planning**

- 1.1 The Service Provider shall prepare an exit strategy and accompanying high level plan (“**Exit Plan**”) for the Contract and submit them for agreement by the Authority within six (6) Months of the Commencement Date.
- 1.2 Once agreed, these items will be incorporated into the Contract as Appendix 1 to this Schedule 6 in accordance with the change process outlined in Clause 34.
- 1.3 The Exit Plan will set out the provisions for exiting the Contract in a controlled manner and where appropriate handing over activity to an alternative provider. This should include any pre and post termination support and activity required. During the life of the Contract the Service Provider and Authority will review the Exit Plan and the Service Provider shall develop it to ensure that it is workable and practical.
- 1.4 The Service Provider shall fully cooperate with the Authority and any new provider during the exit and handover and meet all reasonable requests for support within reasonable timescales.
- 1.5 The Exit Plan shall, as a minimum, include the following:
  - 1.5.1 agreement about access to staff for communication and training purposes;
  - 1.5.2 agreement about access to the Services premises and facilities during the transition period;
  - 1.5.3 agreement about data sharing, including any personally identifiable information, with any future service provider, always ensuring that the Service Provider remains fully compliant with the Data Protection Legislation;
  - 1.5.4 agreement about the transfer of intellectual property rights owned by the Authority during transition; and
  - 1.5.5 agreement to the classification and transfer of any assets.
- 1.6 The Exit Plan will be amendable from time to time with the agreement of both the Service Provider and the Authority.

### **2. Staffing Information to be Provided on Expiry or Termination**

- 2.1 In line with the provisions of Clause 11, the Service Provider shall provide the information listed below in respect of those on the Staff List:
  - 2.1.1 Amount of time spent on the Services (or any part of the Services specified by the Authority);

- 2.1.2 Date of birth;
- 2.1.3 Role Title/Designation and Role Profile;
- 2.1.4 Annual Salary £;
- 2.1.5 Bonus and Commission Amount and Frequency;
- 2.1.6 Pay Frequency and Date;
- 2.1.7 Overtime - Contractual or Non Contractual and Rates;
- 2.1.8 Contractual Working Hours;
- 2.1.9 Contract Type - Permanent/Temporary;
- 2.1.10 Geographical Area Of Work/Location;
- 2.1.11 Commencement of Employment Date;
- 2.1.12 Continuous Service Date;
- 2.1.13 Car Allowance;
- 2.1.14 Pension Contributions, from both the employer and the employee, and including additional information on:
  - 2.1.14.1 who were originally employees of the Authority;
  - 2.1.14.2 who were members of (or eligible to become members of) the TfL Pension Fund / The Local Government Pension Scheme for England and Wales/The Principal Civil Service Pension Scheme;
  - 2.1.14.3 whose employment transferred from the Authority to the Service Provider under TUPE; and
  - 2.1.14.4 who were entitled to broadly comparable benefits under the Current Contractor's Scheme;
- 2.1.15 Details of the relevant employee representative body or bodies and relevant collective agreements;
- 2.1.16 Date of Annual Pay Award;
- 2.1.17 Annual Leave Entitlement;
- 2.1.18 Contractual Notice Period;
- 2.1.19 Public Holiday/Concessionary Days Entitlement;
- 2.1.20 Sickness Entitlement (in 12 month rolling period);
- 2.1.21 Salary/wage increases pending;
- 2.1.22 Eligibility for enhanced redundancy pay and any other contractual or non-contractual termination of severance arrangements (including methods of calculation);
- 2.1.23 Details of any other benefits provided, whether contractual or non-contractual;
- 2.1.24 Copy of employment contract or applicable standard terms and employee handbook;
- 2.1.25 Any loans or educational grants;

- 2.1.26 For those employees who are foreign nationals the country of citizenship, immigrant status and all documentation required by law to demonstrate a right to work in the United Kingdom;
- 2.1.27 Information on any disciplinary or grievance procedure taken against or by an employee in the two years immediately preceding the information being provided;
- 2.1.28 Information about any tribunal claims in the immediately preceding two years or whether there are reasonable grounds to believe a claim may be brought;
- 2.1.29 Department and place on organisation chart;
- 2.1.30 Average absence due to sickness; and
- 2.1.31 Training and competency records.