**Dated 2021**

* + - * 1. **City of Bradford Metropolitan District Council**
				2. **[Insert name of Provider]**

**Contract for Services**

**[Insert Contract Title]**

**[Insert Contract Reference]**

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**Date:**

**Parties:**

* + - * 1. **CITY OF BRADFORD METROPOLITAN DISTRICT COUNCIL** of City Hall Centenary Square Bradford BD1 1HY (“the Council”); and
				2. **[Insert Name]** a registered company number [Insert] whose registered office is at [Insert] (“the Provider”)

**Introduction**

1. The Council invited potential service providers including the Provider to tender for the Service on [Insert date].
2. On the basis of the Provider’s Tender the Council selected the Provider to deliver the service in accordance with this Contract and issued an Award Letter.
3. This Contract sets out the procedure for and the terms and conditions of the provision of the Service and the obligations of the Provider under this Contract.

**Agreed Terms**

## Definitions and Interpretation

* 1. In this Contract, unless the context otherwise requires, the following words shall have the following meanings:

|  |  |
| --- | --- |
| **"Award Letter"** | means the letter from the Council to the Provider which forms the Contract |
| **"Charges"** | means the charges for the Services as specified in Schedule 2; |
| **"Compliance Officer"** | the person(s) appointed by the Provider who is responsible for ensuring that the Provider complies with its legal obligations; |
| **"Confidential Information"** | means all information, whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential; |
| **"Contract"** | means the contract between (i) the Council and (ii) the Provider which is created by the Award Letter; |
| **"Controller"** | has the meaning given to it in the UK Data Protection Legislation; |
| **"Council Data"** | a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, including any of the Council's confidential information, and which: i) are supplied to the Provider by or on behalf of the Council; or ii) the Provider is required to generate, process, store or transmit pursuant to the Contract; or b) any Personal Data for which the Council is the Data Controller; |
| **"Council Cause"** | any breach of the obligations of the Council or any other default, act, omission, negligence or statement of the Council, of its employees, servants, agents in connection with or in relation to the subject-matter of the Contract and in respect of which the Council is liable to the Provider; |
| **"Data Protection Impact Assessment"** | an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data; |
| **"Data Protection Officer"** | has the meaning given to it in the UK Data Protection Legislation; |
| **“Data Schedule”** | means a schedule of instructions relating to data processing prepared by the Council in the form set out at Schedule 4; |
| **"Data Subject"** | has the meaning given to it in the UK Data Protection Legislation; |
| **"Data Loss Event"** | any event that results, or may result, in unauthorised access to Personal Data held by the Provider under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach; |
| **"Data Subject Access Request"** | a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data; |
| **"Existing IPR"** | any and all intellectual property rights that are owned by or licensed to either Party and which have been developed independently of the Contract (whether prior to the date of the Contract or otherwise); |
| **"Expiry Date"** | means the [insert date]; |
| **"FOIA"** | means the Freedom of Information Act 2000 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation; |
| **"Force Majeure Event"** | any event, occurrence, circumstance, matter or cause affecting the performance by either Party of its obligations under the Contract arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control which prevent or materially delay it from performing its obligations under the Contract but excluding: i) any industrial dispute relating to the Provider, the Provider Staff (including any subsets of them) or any other failure in the Provider or the subcontractor's supply chain; ii) any event, occurrence, circumstance, matter or cause which is attributable to the wilful act, neglect or failure to take reasonable precautions against it by the Party concerned; iii) any failure of delay caused by a lack of funds; iv) any outbreak of an infectious or communicable disease or infestation unless the same shall be the subject of Regulations made under the Public Health (Control of Diseases) Act 1984 that require the Provider to take measures that substantially prevent it from supplying: a. the Services; or b. such amended services and terms as the Council shall propose in writing to the Provider in consequence of such Regulations in order to enable the Contract to remain substantially capable of performance |
| **"Good Industry Practice"** | standards, practices, methods and procedures conforming to the law and the exercise of the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged within the relevant industry or business sector; |
| **"Information"** | has the meaning given under section 84 of the FOIA; |
| **"Information Commissioner"** | the UK’s independent authority which deals with ensuring information relating to rights in the public interest and data privacy for individuals is met, whilst promoting openness by public bodies; |
| **"Insolvency Event"** | in respect of a person: a) if that person is insolvent; ii) if an order is made or a resolution is passed for the winding up of the person (other than voluntarily for the purpose of solvent amalgamation or reconstruction); iii) if an administrator or administrative receiver is appointed in respect of the whole or any part of the persons assets or business; iv) if the person makes any composition with its creditors or takes or suffers any similar or analogous action to any of the actions detailed in this definition as a result of debt in any jurisdiction; |
| **"New IPR"** | all and intellectual property rights in any materials created or developed by or on behalf of the Provider pursuant to the Contract but shall not include the Provider's Existing IPR; |
| **"Party"** | the Provider or the Council (as appropriate) and "Parties" shall mean both of them; |
| **"Personal Data"** | has the meaning given to it in the UK Data Protection Legislation; |
| **"Personal Data Breach"** | has the meaning given to it in the UK Data Protection Legislation; |
| **"Processor"** | has the meaning given to it in the UK Data Protection Legislation; |
| **"Purchase Order Number"** | means the Council’s unique number relating to the order for Services to be supplied by the Provider to the Council in accordance with the terms of the Contract; |
| **"Regulations"** | the Public Contracts Regulations 2015 as amended from time to time; |
| **"Request for Information"** | has the meaning set out in the FOIA or the Environmental Information Regulations 2004 as relevant (where the meaning set out for the term "request" shall apply); |
| **"Services"** | means the services to be supplied by the Provider to the Council under the Contract as described in the Specification; |
| **"Specification"** | means the specification for the Services to be supplied by the Provider to the Council (including as to quantity, description and quality) as provided by the Council and attached at Schedule 1; |
| **"Staff"** | means all directors, officers, employees, agents, consultants and contractors of the Provider and/or of any sub-contractor of the Provider engaged in the performance of the Provider’s obligations under the Contract; |
| **"Staff Vetting Procedures"** | means vetting procedures that accord with good industry practice or, where applicable, the Council’s procedures for the vetting of personnel as provided to the Provider from time to time; |
| **"Sub-Processor"** | any third Party appointed to process Personal Data on behalf of the Provider related to the Contract; |
| **“Start Date”** | means the date for commencement of the Contract as set out in the Award Letter. |
| **“Tender”** | means the document submitted by the Provider to the Council in response to the Council’s invitation to providers for formal offers to supply it with the Services as attached at Schedule 3. |
| **"Term"** | means the period from the Start Date of the Contract to the Expiry Date as such period may be extended or terminated in accordance with the terms and conditions of the Contract; |
| **"UK Data Protection Legislation"** | means all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended; |
| **"VAT"** | means value added tax in accordance with the provisions of the Value Added Tax Act 1994; |
| **"Workers"** | any one of the Provider Staff which the Council, in its reasonable opinion, considers is an individual to which Procurement Policy Note 08/15 (Tax Arrangements of Public Appointees) applies in respect of the Services; |
| **"Working Day"** | means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London. |

##

* 1. In the Contract, unless the context otherwise requires:
		1. references to clauses and schedules are references to the relevant clause of and schedule to these terms and conditions unless otherwise stated;
		2. the schedules form part of this Contract
		3. any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;

* + 1. the headings in this Contract are for information only and do not affect the interpretation of the Contract;
		2. references to "writing" include printing, display on a screen and electronic transmission and other modes of representing or reproducing words in a visible form;
		3. the singular includes the plural and vice versa;
		4. words importing a gender include all genders;
		5. references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees
		6. a reference to any law includes a reference to that law as amended, extended, consolidated or re-enacted from time to time and to any legislation or byelaw made under that law; and
		7. the word ‘including’, "for example" and similar words shall be understood as if they were immediately followed by the words "without limitation".

## Basis of Contract

* 1. The Award Letter constitutes an acceptance of the Provider’s offer to the Council to provide the Services subject to and in accordance with the terms and conditions of the Contract.
	2. The Contract is deemed to have been formed upon the receipt by the Provider of the Award Letter signed by the Council.
	3. The Provider warrants and represents that its tender and all statements made and documents submitted as part of the procurement of Services are and remain true and accurate.
	4. The Contract shall take effect on the Start Date and shall expire automatically on the Expiry Date unless it is otherwise terminated in accordance with the provisions of the Contract, or otherwise lawfully terminated, or extended. The Council may extend the Term prior to the Expiry Date if it has been provided for in the Specification, subject to the extension provisions described in the Specification. The terms and conditions of this Contract shall apply throughout any extended period.

## Services

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* 1. In consideration of the Council’s payment of the Charges, the Provider shall supply the Services to the Council for the Term subject to and in accordance with the terms and conditions of the Contract.
	2. The Provider is not given any sole or exclusive rights in relation to the provision of the Services.

* 1. The Provider must provide the Services:
		+ 1. in compliance with all of the Council’s instructions;

* + - 1. in accordance with all descriptions and specifications set out in the Specification;
			2. to a professional standard;
			3. using reasonable skill and care;
			4. using Good Industry Practice;
			5. using its own policies, processes and internal quality control measures as long as they don’t conflict with the Contract;
			6. using staff who are suitably skilled and experienced to perform tasks assigned to them;

* + - 1. on the dates agreed; and
			2. in compliance with all laws.
	1. The Provider must provide Services with a warranty of at least 90 days (or longer where the Provider offers a longer warranty period to its buyers) from delivery against all obvious defects.
	2. The Council may by written notice to the Provider at any time request a variation to the scope of the Services. In the event that Provider agrees to any variation in the scope of the Services, the charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Parties.
	3. Late delivery of the Services will be a default of the Contract.
	4. The Provider must co-operate with the Council and third party providers on all aspects connected with the delivery of the Services and ensure that Provider Staff comply with any reasonable instructions including any security requirements.
	5. The Council must provide the Provider with reasonable access to its premises at reasonable times for the purpose of supplying the Services
	6. The Provider must at its own risk and expense provide all equipment required to deliver the Services. Any equipment provided by the Council to the Provider for supplying the Services remains the property of the Council and is to be returned to the Council on expiry or termination of the Contract.
	7. The Provider must allocate sufficient resources and appropriate expertise to the Contract.
	8. The Provider must take all reasonable care to ensure performance does not disrupt the Council's operations, employees or other contractors.
	9. On completion of the Services, the Provider is responsible for leaving any of the Council's premises it has used for or delivered the Services at in a clean, safe and tidy condition and making good any damage that it has caused to the Council's premises or property, other than fair wear and tear.
	10. The Provider must ensure all Services, and anything used to deliver the Services, are of good quality and free from defects.
	11. The Council is entitled to withhold payment for partially delivered or undelivered Services, but doing so does not stop it from using its other rights under the Contract.

## Charges

* 1. In exchange for the Services, the Provider shall be entitled to invoice the Council for the Charges. The Provider shall raise invoices promptly and in any event within 90 days from when the charges are due.
	2. All Charges:
		+ 1. exclude VAT, which is payable on provision of a valid VAT invoice; and
			2. include all costs connected with the supply of Services.
	3. The Council must pay the Provider the charges within 30 days of receipt by the Council of a valid, undisputed invoice, in cleared funds to the Provider's account on the invoice.
	4. A Provider invoice is only valid if it:
		+ 1. includes all appropriate references including the Purchase Order Number and other details reasonably requested by the Council; and
			2. includes a detailed breakdown of Services which have been delivered (if any).
	5. If there is a dispute between the Parties as to the amount invoiced, the Council shall pay the undisputed amount. The Provider shall not suspend the provision of the Services unless the Provider is entitled to terminate the Contract for a failure to pay undisputed sums in accordance with clause 10.5. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause 34.
	6. The Council may retain or set-off payment of any amount owed to it by the Provider if notice and reasons are provided.
	7. The Provider must ensure that all subcontractors are paid, in full, within 30 days of receipt of a valid, undisputed invoice. If this doesn't happen, the Council can publish the details of the late payment or non-payment.

## Council Cause

* 1. If the Provider fails to comply with the Contract as a result of a Council Cause:
		+ 1. the Council cannot terminate the Contract under clause 10;
			2. the Provider is entitled to reasonable and proven additional expenses and to relief from liability under this Contract;
			3. the Provider is entitled to additional time needed to deliver the Services; and
			4. the Provider cannot suspend the ongoing supply of Services.
	2. Clause 5.1 only applies if the Provider:
		+ 1. gives notice to the Council within 10 Working Days of becoming aware;
			2. demonstrates that the failure only happened because of the Council Cause; and
			3. has mitigated where possible the impact of the Council Cause.

## Record Keeping and Reporting

* 1. The Provider must ensure that suitably qualified representatives attend progress meetings with the Council and provide progress reports when specified in the Specification.
	2. The Provider must keep and maintain full and accurate records and accounts on all matters related to the Contract for seven years after the date of expiry or termination of the Contract.
	3. The Provider must allow any auditor appointed by the Council access to their premises to verify all contract accounts and records of everything to do with the Contract and provide copies for the audit.
	4. The Provider must provide information to the auditor and reasonable co-operation at their request.
	5. If the Provider is not providing any of the Services, or is unable to provide them, it must immediately:
		+ 1. tell the Council and give reasons;
			2. propose corrective action; and
			3. provide a deadline for completing the corrective action.
	6. If the Council, acting reasonably, is concerned as to the financial stability of the Provider such that it may impact on the continued performance of the Contract then the Council may:
		+ 1. require that the Provider provide to the Council (for its approval) a plan setting out how the Provider will ensure continued performance of the Contract and the Provider will make changes to such plan as reasonably required by the Council and once it is agreed then the Provider shall act in accordance with such plan and report to the Council on demand; and
			2. if the Provider fails to provide a plan or fails to agree any changes which are requested by the Council or fails to implement or provide updates on progress with the plan, terminate the Contract immediately for material breach (or on such date as the Council notifies).

## Provider staff

* 1. The Provider Staff involved in the performance of the Contract must:
		+ 1. be appropriately trained and qualified;
			2. be vetted using Good Industry Practice and in accordance with any instructions set out in the Specification or any Staff Vetting Procedures: and
			3. comply with all conduct requirements when on the Council's premises.
	2. Where the Council determines that a member of the Provider's Staff is not suitable to work on the Contract, the Provider must replace them with a suitably qualified alternative.
	3. If requested, the Provider must replace any person whose acts or omissions have caused the Provider to breach this clause 7.
	4. The Provider must provide a list of Provider Staff who require access to the Council's premises and explain the reasons for access to be required.
	5. The Provider indemnifies the Council against all claims brought by any person employed by the Provider caused by an act or omission of the Provider or any Provider Staff.
	6. The Provider shall use those persons nominated in its Tender (if any) to provide the Services and shall not remove or replace any of them without the Council’s prior written approval (such approval not to be unreasonably withheld or delayed) unless:
		+ 1. requested to do so by the Council;
			2. the person concerned resigns, retires or dies or is on maternity or long-term sick leave; or
			3. the person's employment or contractual arrangement with the Provider or any subcontractor is terminated for material breach of contract by the employee.

## Warranties and Representations

* 1. The Provider warrants and represents that:
		1. it has full capacity and authority to enter into and to perform the Contract;
		2. the Contract is executed by its authorised representative;
		3. it is a legally valid and existing organisation incorporated in the place it was formed;
		4. there are no known legal or regulatory actions or investigations before any court, administrative body or arbitration tribunal pending or threatened against it or its affiliates that might affect its ability to perform the Contract;
		5. it maintains all necessary rights, authorisations, licences and consents to perform its obligations under the Contract;
		6. it doesn't have any contractual obligations which are likely to have a material adverse effect on its ability to perform the Contract; and
		7. it is not impacted by an Insolvency Event.
	2. The warranties and representations in clause 8.1 are repeated each time the Provider provides Services under the Contract.
	3. The Provider indemnifies the Council against each of the following:
		1. wilful misconduct of the Provider, any of its subcontractor and/or Provider Staff that impacts the Contract; and
		2. non-payment by the Provider of any tax or National Insurance.
	4. If the Provider becomes aware of a representation or warranty that becomes untrue or misleading, it must immediately notify the Council.
	5. All third party warranties and indemnities covering the Services must be assigned for the Council's benefit by the Provider.

## Intellectual Property Rights (IPRs)

* 1. Each Party keeps ownership of its own Existing IPRs. The Provider gives the Council a non-exclusive, perpetual, royalty-free, irrevocable, transferable worldwide licence to use, change and sub-license the Provider's Existing IPR to enable it and its sub- licensees to both:
		+ 1. receive and use the Services; and
			2. use the New IPR.
	2. Any New IPR created under the Contract is owned by the Council. The Council gives the Provider a licence to use any Existing IPRs for the purpose of fulfilling its obligations under the Contract and a perpetual, royalty-free, non-exclusive licence to use any New IPRs.
	3. Where a Party acquires ownership of intellectual property rights incorrectly under this Contract it must do everything reasonably necessary to complete a transfer assigning them in writing to the other Party on request and at its own cost.
	4. Neither Party has the right to use the other Party's intellectual property rights, including any use of the other Party's names, logos or trademarks, except as provided in this clause 9 or otherwise agreed in writing.
	5. If any claim is made against the Council for actual or alleged infringement of a third party’s intellectual property arising out of, or in connection with, the supply or use of the Services (an "**IPR Claim**"), then the Provider indemnifies the Council against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result of the IPR Claim.
	6. If an IPR Claim is made or anticipated the Provider must at its own expense and the Council's sole option, either:
		+ 1. obtain for the Council the rights in clauses 9.1 and 9.2 without infringing any third party intellectual property rights; or
			2. replace or modify the relevant item with substitutes that don’t infringe intellectual property rights without adversely affecting the functionality or performance of the Services.

## Termination

**Termination without Cause**

* 1. The Council has the right to terminate the Contract at any time without reason or liability by giving the Provider not less than 90 days' written notice. In the event of termination under this clause 10.1 the provisions of clauses 10.4(b) to 10.4(g) will apply.

**Council Termination**

* 1. The Council has the right to immediately terminate the Contract by issuing a termination notice in writing to the Provider in the event that:
		+ 1. there is a Provider Insolvency Event;
			2. the Provider repeatedly breaches the Contract in a way to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of the Contract;
			3. the Provider is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Provider receiving notice specifying the breach and requiring it to be remedied;
			4. there is a change of control (within the meaning of section 450 of the Corporation Tax Act 2010) of the Provider which isn't pre-approved by the Council in writing;
			5. the Council discovers that the Provider was in one of the situations in 57(1) or 57(2) of the Regulations at the time the Contract was awarded;
			6. the Court of Justice of the European Union uses Article 258 of the Treaty on the Functioning of the European Union (TFEU) to declare that the Contract should not have been awarded to the Provider because of a serious breach of the TFEU or the Regulations; or
			7. the Provider or its affiliates embarrass or bring the Council into disrepute or diminish the public trust in them.
	2. If any of the events in 73(1) (a) to (c) of the Regulations (substantial modification, exclusion of the Provider, procurement infringement) happen, the Council has the right to immediately terminate the Contract and clauses 10.4(a) to 10.4(g) will apply.

**Consequences of Termination**

* 1. Where the Council terminates the Contract under clause 10.2 or 10.3 the following apply:
		+ 1. the Provider is responsible for the Council's reasonable costs of procuring replacement Services for the rest of the Term;
			2. the Council's payment obligations under the terminated Contract stop immediately other than payments in respect of unpaid undisputed Charges for Services received up until the date of termination;
			3. any of the rights, remedies, obligations or liabilities of the Parties that have accrued up to the date of termination are not affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination;
			4. the Provider must promptly delete or return the Council Data except where required to retain copies by law;
			5. the Provider must promptly return any of the Council's property provided under the Contract;
			6. the Provider must, at no cost to the Council, give all reasonable assistance to the Council and any incoming Provider and co-operate fully in the handover and re-procurement of the Contract;
			7. the following clauses survive the termination of the Contract: 5, 6.2, 8, 10, 14, 16, 17, 18, 19, 35 and any clauses which are expressly or by implication intended to continue.

**Provider Termination**

* 1. If the Council does not pay an undisputed invoice on time the Provider may issue a reminder notice. If the Council fails to pay an undisputed invoiced sum due and worth over 10% of the total Contract value or £1,000, whichever is the lower, within 30 days of the date of the reminder notice the Provider may terminate the Contract by issuing a termination notice in writing.
	2. If the Provider terminates the Contract under clause 10.5:
		+ 1. the Council must promptly pay all outstanding charges incurred to the Provider;
			2. the Council must pay the Provider reasonable committed and unavoidable losses as long as the Provider provides a fully itemised and costed schedule with evidence. The maximum value of this payment is limited to the total sum payable to the Provider if the Contract had not been terminated;
			3. clauses 10.4(d) to 10.4(g) will apply.

**Suspension of Contract**

* 1. Where the Council has the right to terminate the Contract it can terminate or suspend (for any period), all or part of it. If the Council suspends the Contract it can provide the Services itself or purchase them from a third party.
	2. The Council can only partially terminate or suspend the Contract if the remaining parts of it can still be used to effectively deliver the intended purpose.
	3. The Parties must agree (in accordance with clause 25) any necessary variation required by clause 10.7, but the Provider may not either:
		+ 1. reject the variation; or
			2. increase the Charges, except where the right to partial termination is under clause 10.1.
	4. The Council shall retain its other rights that may be available, or subsequently available to it, in the event it acts on its rights under clause 10.7.

## Liability

* 1. Each Party's total aggregate liability under or in connection with the Contract (whether in tort, contract or otherwise) is no more than 125% of the Charges paid or payable to the Provider.
	2. No Party is liable to the other for:
		1. any indirect losses;
		2. loss of profits, turnover, savings, business opportunities or damage to goodwill (in each case whether direct or indirect).
	3. Notwithstanding clause 11.1, neither Party limits or excludes any of the following:
		1. liability for death or personal injury caused by its negligence, or that of its employees, agents or subcontractors;
		2. liability for bribery or fraud or fraudulent misrepresentation by it or its employees;
		3. any liability that cannot be excluded or limited by law.
	4. Notwithstanding clause 11.1, the Provider does not limit or exclude its liability for any indemnity given under clauses 7.5, 8.3, 9.5, 13.2 or 15.23.
	5. Each Party must use all reasonable endeavours to mitigate any loss or damage which it suffers under or in connection with the Contract, including any indemnities.
	6. If more than one Provider is party to the Contract, each Provider Party is fully responsible for both their own liabilities and the liabilities of the other Providers.

## Insurance

* 1. The Provider shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover in respect of all risks which may be incurred by the Provider arising out of the Provider’s performance of its obligations under the Contract, including death or personal injury, loss of or damage to property or any other loss. Such insurance shall be maintained for the duration of the term and for a minimum of 6 (six) years following the expiration or earlier termination of the Contract. The Provider shall provide evidence of such insurance policies as may be requested by the Council.
	2. If for any reason the Provider fails to give effect to and maintain the insurances required by clause 12.1 the council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.
	3. The provisions of any insurance or the amount of cover shall not relive the Provider of any liabilities under the Contract. It shall be the responsibility of the Provider to determine the amount of insurance cover that will be adequate to enable to Contractor to satisfy any liability under this Contract.

## Compliance

* 1. The Provider must, in connection with provision of the Services, use reasonable endeavours to:
		1. comply and procure that its subcontractors comply in all respects with the Council's requirements and policies set out the Specification and all corporate social responsibility requirements as the Council may notify to the Provider from time to time;
		2. support the Council in fulfilling its Public Sector Equality duty under s149 of the Equality Act 2010;
		3. not use nor allow its subcontractors to use modern slavery, child labour or inhumane treatment;
		4. support the Council in sustainable procurement.
	2. The Provider indemnifies the Council against any costs resulting from any default by the Provider relating to any applicable law to do with the Contract.
	3. The Provider must appoint a Compliance Officer who must be responsible for ensuring that the Provider complies with law, clause 13.1 and Clauses 28 to 33.

## Council Data

* 1. The Provider must not remove any ownership or security notices in or relating to the Council Data.
	2. The Provider must make accessible back-ups of all Council Data, stored in an agreed off-site location and send the Council copies every six months.
	3. The Provider must ensure that any Provider system holding any Council Data, including back-up data, is a secure system that complies with the security requirements specified in the Data Schedule by the Council.
	4. If at any time the Provider suspects or has reason to believe that the Council Data provided under the Contract is corrupted, lost or sufficiently degraded, then the Provider must notify the Council and immediately suggest remedial action.
	5. If the Council Data is corrupted, lost or sufficiently degraded so as to be unusable the Council may either or both:
		1. require the Provider to restore the Council Data as soon as practical but no later than five Working Days from the date that the Council receives notice, or the Provider becomes aware of the issue, whichever is earlier;
		2. restore the Council Data itself or using a third party.
	6. The Provider must pay each Party's reasonable costs of complying with clause 14.5 unless the Council is at fault.
	7. The Provider must:
		+ 1. provide the Council with all Council Data in an agreed open format within 10 Working Days of a written request;
			2. have documented processes to guarantee prompt availability of Council Data if the Provider stops trading;
			3. securely destroy all Storage Media that has held Council Data at the end of life of that media using Good Industry Practice;
			4. securely erase all Council Data and any copies it holds when asked to do so by the Council unless required by law to retain it;

## Data Protection

* 1. The Council is the Controller and the Provider is the Processor for the purposes of the Data Protection Legislation.
	2. The only processing that the Provider is authorised to do is pursuant to the instructions in the Data Schedule served by the Council upon the Provider from time to time and may not be determined by the Provider.
	3. Only the Council can decide what processing of Personal Data a Provider can do under the Contract and must specify it for the Contract using the template at Schedule 4 (Data Schedule).
	4. The Provider must only process Personal Data if authorised to do so in the Data Schedule by the Council. Any further written instructions relating to the processing of Personal Data are incorporated into the Data Schedule.
	5. The Provider must give all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment before starting any processing, including:
		+ 1. a systematic description of the expected processing operations and the purpose of the processing;
			2. an assessment of the necessity and proportionality of the processing operations;
			3. an assessment of the risks to the rights and freedoms of Data Subjects; and
			4. the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
	6. The Provider must notify the Council immediately if it thinks the Council's instructions breach the Data Protection Legislation.
	7. The Provider must ensure that it has in place Protective Measures which are appropriate to protect against a Data Loss Event and which the Council, as Controller, may reasonably reject (but failure to reject shall not amount to approval by the Controller of the adequacy of the Protective Measures), having taken account of the:
		+ - 1. nature of the data to be protected;
				2. harm that might result from a Data Loss Event;
				3. state of technological development; and
				4. cost of implementing any measures;
	8. If the Provider is required to process Personal Data by law it shall promptly notify the Council before processing the Personal Data, unless prohibited by law.
	9. The Provider must take all reasonable steps to ensure the reliability and integrity of any Provider Staff who have access to the Personal Data and ensure that they:
		+ 1. are aware of and comply with the Provider's duties under this clause 15;
			2. are subject to appropriate confidentiality undertakings with the Provider or any Sub-Processor;
			3. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this Contract; and
			4. have undergone adequate training in the use, care, protection and handling of Personal Data.
	10. The Provider must not transfer Personal Data outside of the EU unless the prior written consent of the Council has been obtained and the following are fulfilled:
		+ 1. the Council or the Provider has provided appropriate safeguards in relation to the transfer (in accordance with Article 46 of the UK GDPR) as determined by the Council;
			2. the Data Subject has enforceable rights and effective legal remedies when transferred;
			3. the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred, or, if it is not so bound, uses its best endeavours to assist the Council in meeting its own obligations; and
			4. the Provider complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data.
	11. Subject to clause 15.12 the Provider must notify the Council immediately if it:
		+ 1. receives a Data Subject Access Request (or purported Data Subject Access Request);
			2. receives a request to rectify, block or erase any Personal Data;
			3. receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
			4. receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
			5. receives a request from any third party for disclosure of Personal Data where compliance with the request is required or claims to be required by law;
			6. becomes aware of a Data Loss Event.
	12. Any requirement to notify under clause 15.11 includes the provision of further information to the Council in phases as details become available.
	13. Taking into account the nature of the processing, the Provider shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 15.11 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing to the Council:
		+ 1. full details and copies of the complaint, communication or request;
			2. such assistance as is reasonably requested to enable the Council to comply with a Data Subject Access Request within the relevant timescales in the Data Protection Legislation;
			3. any Personal Data it holds in relation to a Data Subject on request;
			4. assistance that it requests following any Data Loss Event; and
			5. assistance that it requests with respect to a consultation with, or request from, the Information Commissioner's Office.
	14. The Provider must maintain full, accurate records and information to show it complies with this clause 15. This requirement does not apply where the Provider employs fewer than 250 staff, unless the Council determines that the processing:
		+ 1. is not occasional;
			2. includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; or
			3. is likely to result in a risk to the rights and freedoms of Data Subjects.
	15. The Provider shall allow for audits of its Data Processing activity by the Council or the Council’s designated auditor.
	16. The Provider must appoint a Data Protection Officer responsible for observing its obligations in this clause and provide to the Council their contact details.
	17. Before allowing any Sub-Processor to process any Personal Data, the Provider must:
		+ 1. notify the Council in writing of the intended Sub-Processor and processing;
			2. obtain the written consent of the Council;
			3. enter into a written contract with the Sub-Processor so that this clause 15 applies to the Sub-Processor;
			4. provide the Council with any information about the Sub-Processor that the Council reasonably requires.
	18. The Provider remains fully liable for all acts or omissions of any Sub-Processor.
	19. The Council may, at any time with not less than 30 Working Days’ notice to the Provider, revise this clause 15 to:
		+ 1. replace it with any applicable standard clauses (between the controller and processor) or similar terms forming part of an applicable certification scheme under UK GDPR Article 42;
			2. ensure it complies with guidance issued by the Information Commissioner's Office.
	20. The Parties agree to take account of any non-mandatory guidance issued by the Information Commissioner's Office.
	21. The Provider shall at the written direction of the Council, delete or return by secure means Personal Data (and any copies of it) to the Council on termination of the Contract unless the Provider is required by law to retain the Personal Data.
	22. In the event of a dispute or claim brought by a Data Subject concerning the Processing of Shared Personal Data, the Provider will inform the Council about any such disputes or claims, and will co-operate with the Council in resolving the same.
	23. The Provider undertakes to indemnify the Council and hold the Council harmless from any claims, proceedings, actions, damages, costs, fines, expenses and any other liabilities which may arise out of, or in consequence of a breach or purported breach of the Data Protection Legislation or the performance or non-performance by the Provider of its obligations under this Contract in relation to the Data Protection Legislation, including loss of or damage to property, financial loss arising from any breach of the Data Protection Legislation, or any other loss which is caused directly or indirectly by any act or omission of the Provider arising from any breach of the Data Protection Legislation.
	24. The provisions of this clause 15 shall apply during the Term of this Contract and indefinitely after its expiry.

## Confidential Information

* 1. Each Party must:
		+ 1. keep all Confidential Information it receives confidential and secure;
			2. not disclose, use or exploit the disclosing Party's Confidential Information without the disclosing Party's prior written consent, except for the purposes anticipated under the Contract;
			3. immediately notify the disclosing Party if it suspects unauthorised access, copying, use or disclosure of the Confidential Information.
	2. Notwithstanding clause 16.1, a Party may disclose Confidential Information which it receives from the disclosing Party in any of the following instances:
		+ 1. where disclosure is required by applicable law or by a court with the relevant jurisdiction if the recipient Party notifies the disclosing Party of the full circumstances, the affected Confidential Information and extent of the disclosure;
			2. if the recipient Party already had the information without obligation of confidentiality before it was disclosed by the disclosing Party;
			3. if the information was given to it by a third party without obligation of confidentiality;
			4. if the information was in the public domain at the time of the disclosure;
			5. if the information was independently developed without access to the disclosing Party's Confidential Information;
			6. to its auditors or for the purposes of regulatory requirements;
			7. on a confidential basis, to its professional advisers on a need-to-know basis;
			8. to the Serious Fraud Office where the recipient Party has reasonable grounds to believe that the disclosing Party is involved in activity that may be a criminal offence under the Bribery Act 2010.
	3. The Provider may disclose Confidential Information on a confidential basis to Provider Staff on a need-to-know basis to allow the Provider to meet its obligations under the Contract. The Provider Staff must enter into a direct confidentiality agreement with the Council at its request.
	4. The Council may disclose Confidential Information in any of the following cases:
		+ 1. on a confidential basis to the employees, agents, consultants and contractors of the Council;
			2. on a confidential basis to any other Local Authority, any successor body to a Local Authority or any company that the Council transfers or proposes to transfer all or any part of its business to;
			3. if the Council (acting reasonably) considers disclosure necessary or appropriate to carry out its public functions;
			4. where requested by Parliament;
			5. under clauses 4.7 and 17.
	5. For the purposes of clauses 16.2 to 16.4 references to disclosure on a confidential basis means disclosure under a confidentiality agreement or arrangement including terms as strict as those required in this clause 16.
	6. Information which is exempt from disclosure under the FOIA or EIR is not Confidential Information.
	7. The Provider must not make any press announcement or publicise the Contract or any part of it in any way, without the prior written consent of the Council and must take all reasonable steps to ensure that Provider Staff do not either.

## Requests for Information

* 1. The Provider must tell the Council within 48 hours if it receives a Request For Information.
	2. Within the required timescales the Provider must give the Council full co-operation and information needed in order that the Council may:
		+ 1. comply with any Freedom of Information Act (FOIA) request; or
			2. comply with any Environmental Information Regulations (EIR) request.
	3. The Council may talk to the Provider to help it decide whether to publish information under the FOIA or EIR. However, the extent, content and format of the disclosure is the Council’s decision, which does not need to be reasonable.

## Severability

* 1. If any part of the Contract is prohibited by law or judged by a court to be unlawful, void or unenforceable, it must be read as if it was removed from that Contract as much as required and rendered ineffective as far as possible without affecting the rest of the Contract, whether it’s valid or enforceable.

## Entire Agreement

* 1. The provisions incorporated into the Contract are the entire agreement between the Parties. The Contract replaces all previous statements and agreements whether written or oral. No other provisions apply.

## Third Party Rights

* 1. No third parties may use the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract unless stated in the Contract. This does not affect third party rights and remedies that exist independently from the Contracts (Rights of Third Parties) Act.

## Force Majeure

* 1. Any Party affected by a Force Majeure Event is excused from performing its obligations under the Contract while the inability to perform continues, if it both:
		+ 1. provides written notice to the other Party; and
			2. uses all reasonable measures practical to reduce the impact of the Force Majeure Event.
	2. Either party can partially or fully terminate the Contract if the provision of the Services is materially affected by a Force Majeure Event which lasts for 90 days continuously.
	3. Where a Party terminates under clause 21.2:
		+ 1. each Party must cover its own losses; and
			2. clauses 10.4(b) to 10.4(g) apply.

## Provider Status

* 1. This Contract does not create a partnership, joint venture or employment relationship between the Parties. The Provider must represent themselves accordingly and ensure others do so.

## Waiver

* 1. A partial or full waiver or relaxation of the terms of the Contract is only valid if it is stated to be a waiver in writing to the other Party.

## Assignment and Sub-Contracting

* 1. The Provider cannot sub-contract, assign novate or in any way dispose of the benefit and/or burden of the Contract or any part of it without the Council's prior written consent.
	2. The Council can assign, novate or transfer its Contract or any part of it to any Crown Body, public or private sector body which performs the functions of the Council.
	3. When the Council uses its rights under clause 24.2 the Provider must enter into a novation agreement in the form that the Council specifies.
	4. The Provider can terminate the Contract novated under clause 24.2 to a private sector body that is experiencing an Insolvency Event.
	5. The Provider remains responsible for all acts and omissions of the Provider Staff as if they were its own.
	6. If the Council asks the Provider for details about subcontractors, the Provider must provide details of subcontractors at all levels of the supply chain including:
		+ 1. their name;
			2. the scope of their appointment;
			3. the duration of their appointment.

## Variation

* 1. Either Party can request a variation to the Contract which is only effective if agreed in writing and signed by both Parties. The Council is not required to accept a variation request made by the Provider.

## Notices

* 1. All notices under the Contract must be in writing and are considered effective on the Working Day of delivery if delivered before 17:00 on a Working Day. Otherwise the notice is effective on the next Working Day. An email is effective when sent unless an error message is received.
	2. Notices to the Council or Provider must be sent to their address stated in the Award Letter and/or Tender.
	3. This clause does not apply to the service of legal proceedings or any documents in any legal action, arbitration or dispute resolution.

## Preventing Fraud, Bribery and Corruption

* 1. The Provider shall not:
		+ 1. commit any criminal offence referred to in the Regulations 57(1) and 57(2);
			2. offer, give, or agree to give anything, to any person (whether working for or engaged by the Council or any other public body) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of the Contract or any other public function or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any other public function.
	2. The Provider shall take all reasonable steps (including creating, maintaining and enforcing adequate policies, procedures and records), in accordance with good industry practice, to prevent any matters referred to in clause 27.1 and any fraud by the Staff and the Provider (including its shareholders, members and directors) in connection with the Contract and shall notify the Council immediately if it has reason to suspect that any such matters have occurred or is occurring or is likely to occur.
	3. If the Provider or the Staff engages in conduct prohibited by clause 27.1 or commits fraud in relation to the Contract or any other contract with the Crown (including the Council) the Council may:
		+ 1. terminate the Contract and recover from the Provider the amount of any loss suffered by the Council resulting from the termination, including the cost reasonably incurred by the Council of making other arrangements for the supply of the Services and any additional expenditure incurred by the Council throughout the remainder of the Contract; or
			2. recover in full from the Provider any other loss sustained by the Council in consequence of any breach of this clause.

## Equality, Diversity and Human Rights

* 1. The Provider must follow all applicable equality law when they perform their obligations under the Contract, including:
		+ 1. protections against discrimination on the grounds of race, sex, gender reassignment, religion or belief, disability, sexual orientation, pregnancy, maternity, age or otherwise;
			2. any other requirements and instructions which the Council reasonably imposes related to equality law.
	2. The Provider must take all necessary steps, and inform the Council of the steps taken, to prevent anything that is considered to be unlawful discrimination by any court or tribunal, or the Equality and Human Rights Commission (or any successor organisation) when working on the Contract.

## Health and safety

* 1. The Provider must perform its obligations meeting the requirements of:
		+ 1. all applicable law regarding health and safety;
			2. the Council's current health and safety policy while at the Council’s premises, as provided to the Provider.
	2. The Provider and the Council must as soon as possible notify the other of any health and safety incidents or material hazards they’re aware of at the Council premises that relate to the performance of the Contract.

## Environment

* 1. When working on Site the Provider must perform its obligations under the Council's current Environmental Policy, which the Council must provide.
	2. The Provider must ensure that Provider Staff are aware of the Council's Environmental Policy.

## Tax

* 1. The Provider must not breach any tax or social security obligations and must enter into a binding agreement to pay any late contributions due, including where applicable, any interest or any fines. The Council cannot terminate the Contract where the Provider has not paid a minor tax or social security contribution.
	2. Where the Provider or any Provider Staff are liable to be taxed or to pay National Insurance contributions in the UK relating to payment received under the Contract, the Provider must both:
		+ 1. comply with the Income Tax (Earnings and Pensions) Act 2003 and all other statutes and regulations relating to income tax, the Social Security Contributions and Benefits Act 1992 (including IR35) and National Insurance contributions;
			2. indemnify the Council against any Income Tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made during or after the Contract Period in connection with the provision of the Services by the Provider or any of the Provider Staff.
	3. If any of the Provider Staff are Workers who receive payment relating to the Services, then the Provider must ensure that its contract with the Worker contains the following requirements:
		+ 1. the Council may, at any time during the term of the Contract, request that the Worker provides information which demonstrates they comply with clause [31.2](#_bookmark30), or why those requirements do not apply, the Council can specify the information the Worker must provide and the deadline for responding;
			2. the Worker's contract may be terminated at the Council's request if the Worker fails to provide the information requested by the Council within the time specified by the Council
			3. the Worker's contract may be terminated at the Council's request if the Worker provides information which the Council considers isn’t good enough to demonstrate how it complies with clause 31.2 or confirms that the Worker is not complying with those requirements;
			4. the Council may supply any information they receive from the Worker to HMRC for revenue collection and management.

## Conflict of interest

* 1. The Provider must take action to ensure that neither the Provider nor the Provider Staff are placed in the position of an actual or potential conflict between the financial or personal duties of the Provider or the Provider Staff and the duties owed to the Council under the Contract, in the reasonable opinion of the Council.
	2. The Provider must promptly notify and provide details to the Council if a conflict of interest happens or is expected to happen.
	3. The Council can terminate its Contract immediately by giving notice in writing to the Provider or take any steps it thinks are necessary where there is or may be an actual or potential conflict of interest.

## Breach of the Contract

* 1. As soon as it becomes aware the Provider and/or Provider Staff must report to the Council any actual or suspected breach of the law, or breach of clause 13.1, or clauses 27 to 32.
	2. The Provider must not retaliate against any of the Provider Staff who in good faith reports a breach listed in clause 33.1.

## Dispute Resolution

* 1. If there is a dispute between the Parties, their senior representatives who have authority to settle the dispute will, within 28 days of a written request from the other Party, meet in good faith to resolve the dispute.
	2. If the dispute is not resolved at that meeting, the Parties can attempt to settle it by mediation using the Centre for Effective Dispute Resolution (CEDR) Model Mediation Procedure current at the time of the dispute. If the Parties cannot agree on a mediator, the mediator will be nominated by CEDR. If either Party does not wish to use, or continue to use mediation, or mediation does not resolve the dispute, the dispute must be resolved using clauses 34.3 to [34.5](#_bookmark36).
	3. Unless the Council refers the dispute to arbitration using clause 34.4, the Parties irrevocably agree that the courts of England and Wales have the exclusive jurisdiction to:
		+ 1. determine the dispute;
			2. grant interim remedies;
			3. grant any other provisional or protective relief.
	4. The Provider agrees that the Council has the exclusive right to refer any dispute to be finally resolved by arbitration under the London Court of International Arbitration Rules current at the time of the dispute. There will be only one arbitrator. The seat or legal place of the arbitration will be London and the proceedings will be in English.
	5. The Council has the right to refer a dispute to arbitration even if the Provider has started or has attempted to start court proceedings under clause 34.3, unless the Council has agreed to the court proceedings or participated in them. Even if court proceedings have started, the Parties must do everything necessary to ensure that the court proceedings are stayed in favour of any arbitration proceedings if they are started under clause 34.4.
	6. The Provider cannot suspend the performance of the Contract during any dispute.

## Law and Jurisdiction

* 1. This Contract and any issues arising out of, or connected to it, are governed by English law.

**EXECUTION**

**[DN: EITHER USE OPTION 1 – WHERE THE CONTRACT IS NOT REQUIRED TO BE SEALED AS A DEED]**

**IN WITNESS WHEREOF the Parties have signed this Contract on the date shown above**

SIGNED: ……………………………………………….….

for and on behalf of **City of Bradford Metropolitan District Council** by

(Full name of signatory in capitals) ……………………………………………….….

Title ……………………………………………….….

SIGNED: ……………………………………………….….

on behalf of **[DN Insert name of Provider]** ……………………………………………….….

(Full name of signatory in capitals) ……………………………………………….….

Position (Director/Secretary) ……………………………………………….….

**[DN: OR USE OPTION 2 – WHERE THE CONTRACT IS REQUIRED TO BE SEALED AS A DEED]**

**[DB: Wording may change according to the nature of Provider/articles of company – check with legal]**

**IN WITNESS WHEREOF** this Contract has been executed by the duly authorised representatives of the Parties on the date shown at the beginning of this Contract.

**EXECUTED AS A DEED**

by affixing the common seal

of **CITY OF BRADFORD**

**METROPOLITAN DISTRICT**

**COUNCIL** in the presence of:

………………………………….

Name

Authorised by City Solicitor

**EXECUTED AS A DEED** by

**[DN Insert name of Provider]**

acting by [a director and its secretary] /

[two directors] (delete as appropriate)

Signature of Director: ……………………………………………

Name: ……………………………………………

Signature of [Secretary][Director]:……………………………………………

Name:……………………………………………

## SCHEDULE 1 – SPECIFICATION

## SCHEDULE 2 – CHARGES

## SCHEDULE 3 – TENDER

## SCHEDULE 4 – DATA SCHEDULE