

ADASS Eastern Region 2024 Standard Contract for Care services

Frequently Asked Questions:

1. What is the ADASS Eastern Regional Contract?

The Eastern Region of the Association of Directors of Social Services (ADASS) have worked together for a number of years to ensure that wherever possible there is consistency in approach from Social Care authorities in the Region for providers of care and support services who are working with more than one local authority. In this spirit the Region has adopted a common set of Terms and Conditions for the contracting of these services and Suffolk County Council (SCC) has used these since 2016 for the spot purchase of these with accredited providers.

2. Why is SCC adopting the 2024 Version?

SCC Adult Social Care's (ASC) current contracts are based on the 2018 Version of the ADASS Eastern Regional Contract. In the time since then, there have been a number of legal and national policy changes which has meant that this documentation has required updating. The Eastern Region has in consequence updated these and released a new version in 2024. Suffolk County Council has customised these to incorporate Suffolk-specific dimensions and now intends to adopt the new terms for its care and support contracts (the "**New Contract**").

3. Which services are covered by the new Contract?

The affected services are care and support services that require CQC registration and are contracted for on a spot-purchase basis. These include contracts for Residential/Nursing Home Care, Extra Care, Home Care, Supported Living and some Day opportunity services. Block contracts and those contracted for on a Framework basis are not affected.

4. What are the key differences from 2018?

The most substantive variations to the Terms and Conditions are the modification of the clauses relating to requirements for Insurance cover, the introduction of new clauses relating to Data Protection, National Capacity Tracker requirements, No Fault termination (on both sides) and a review of all Schedules.

5. How will we be rolling the new Contracts out?

SCC is adopting a phased approach to the rolling out of contracts, starting with in-County services before moving on to out-of-County ones. There may also be some services that are currently contracted under other arrangements (Frameworks, Call Off / Block), for which a different approach will be adopted. Where this is the case, a separate communication exercise will take place for those services.

6. How will separate services be contracted for?

The intention is that there will be one contract per service type per provider – for example if you provide 3 Older People Care Homes and a Day service in 2 of these, you will receive 2 contracts, one for the Older People services (detailing the 3 different Care Home Locations) and a second for the Day services detailing two Locations.

7. How is the new contract structured?

The new contract is structured with a standard set of Terms and Conditions, which apply to care services being contracted for by Suffolk Adult Social Care. It also has a set of schedules – some of which are applicable to all services, whilst others (particularly the Service Specification and the Performance monitoring schedules) are tailored to different service types.

Throughout the documentation there are sections and clauses which might not be used by Suffolk Social Care for a variety of reasons. This includes for situations where TUPE (Transfer of Undertakings Protection of Employment) may or may not apply, or for example Suffolk Social Care not adopting Electronic Monitoring, Performance Bonds or Commissioning Order Forms. In these circumstances the documentation highlights that these are “NOT USED”.

8. Is it a Deed or a Contract?

It is a Deed of variation to existing contracts, that is required to be sealed by Suffolk County Council as a Deed. In accordance with Suffolk Council Council’s financial regulations, it needs to be signed as a deed rather than a contract.

The only difference between the two is that Deeds have more stringent signing requirements, due to their potential value, in accordance with SCC’s Procurement Regulations. In all other respects there is no difference between a Deed and a Contract.

9. How have the Insurance Clauses changed?

The Insurance clauses in Section G of the Terms and Conditions include updated cover levels expected. In addition, they have introduced the potential requirement for Medical Malpractice, Care and Treatment Insurance (both “as appropriate to the service”), and Sexual Abuse and Molestation Insurance. However, the contract recognises that these risks may be covered by the Providers’ public liability insurance policy. If they are, evidence of such will need to be provided to the Council. Where these insurances are not covered by the public liability insurance or are not covered to a sufficient level, the Provider will need to ensure that separate insurance is taken out to meet the requirements of Clause 31.

10. How have the Data Protection Clauses changed?

The contract has been updated to include the expectations of the UK Data Protection Requirements, in place of the previous GDPR. In addition, Schedule 14 outlines Suffolk County Council’s specific requirements for data protection. Included within this is the Data Compliance form.

11. What is the purpose of the Data Compliance Form?

The Data Compliance Form has been introduced to specifically document the provider's approach to data protection including their registration with the Information Commissioner's Office, how data is stored and what policies, training they have in place.

12. Why has a No-Fault Termination clause (37.10) been introduced?

This clause has been introduced to allow both parties to allow termination without Default to ensure fairness.

13. How have the Service Specifications changed?

There are separate Service Specifications for different service types – Residential and Nursing Home, Home Care, Extra Care etc. Each of these have been revised, with the Residential/Nursing one being tweaked, whilst the Home Care specification now better reflects the Council's Locality Homecare Service Specification. The Extra Care specification provides a clear descriptor of Extra Care housing services with an expected focus on personalised care and support that is flexible to people's changing needs and with a focus on the wider community.

Each specification includes expectations that the Eastern Region Service Outcomes and Standards of Care, which align to CQC Domains and NICE standards are met. They also include reference to Department of Health and Social Care requirements for the submission of national Capacity Tracker information.

14. How have the Performance Monitoring Schedules changed?

The Performance Monitoring Schedules have again also only been tweaked to reflect current practice in ASC's approach to contract management. They also reflect the adoption of the PAMMS framework, in accordance with Clause 17.5 of the Terms and Conditions of the Contract.

15. What do the other Schedules include?

The contract has 18 Schedules, not all of which are being used by SCC ASC. Schedules 1 and 2 cover the Service Specification and Performance Monitoring arrangements, with the other Schedules being:

- Schedule 3: The Council's Policy Statements. These include policies on Equal Opportunities, Translation and Interpreting, Whistleblowing and Modern Slavery
- Schedule 4: Price and Payment Schedule. These include the processes and also the differing arrangements for different service types
- Schedules 5 and 6: Tender Response Document and Copy Contract Award Letter – only used if the service being contracted for
- Schedule 7: Parent Company Guarantee
- Schedule 8: Performance Bond
- Schedule 9: Exit Plan, outlining expectations and arrangements as and when the Contract ends.

- Schedule 10: TUPE and Pensions Schedule, outlining expectations around potential Transfer of Undertakings – Protection of Employment rights if and when these arise through the course of the Contract.
- Schedule 11: Safeguarding Policy
- Schedule 12: Commissioning Order Form
- Schedule 13: Serious Incident Report outlining SCC ASC's expectations in the event of a serious incident
- Schedule 14: Data Processing Schedule (see Questions 9 and 10 above)
- Schedule 15: DBS Risk Assessment, outlining expectations around DBS checking
- Schedule 16: Social Value, outlining expectations that all commissioned services should contribute Social Value in accordance with the Social Value Act 2012
- Schedule 17: Electronic Monitoring
- Schedule 18: National Capacity Tracker, outlining expectations that providers should comply with statutory requirements to complete the National Capacity Tracker.

16. How can I seek clarification on these changes?

The contract documentation (to vary the current contracts) can be seen in the 2025 ADASS Contract Variation Rollout section of the [Provider Toolkit](#). If you require clarification on any aspect of these documents, please download and complete the Clarification Queries document and email to ASCCareMarketHub@suffolk.gov.uk by the 4th August 2025. These FAQs will be updated with responses as required.

Clarification Updates August 2025

17. Deed of Variation Clause 37 - Please confirm the Providers rights to terminate the contract. We can see the Provider has a right to terminate an individual placement but not the contract.

In the main body of the Terms & Conditions at clause 37.10, it states - 37.10.1 In addition to its rights of termination under the Contract, either Party shall be entitled to terminate this Contract, without breach, in whole or in part by giving not less than 3 three months advance notice to that effect, in which case the provisions of Clause 38 shall apply. No further compensation or remedy shall be available to the Provider.

18. We would like clarifying who pays costs on traveling to appointments, escorting to appointments and who funds the 1-1 care if needed.

This would be included in any payments we have agreed to pay you, what is detailed in the care plan for the individual. This is based on the individuals Care Act Assessment.

19. Terms & Conditions Clause 25.5

(a) Our organisation is a Data Controller, and we determine what data we will process to allow for us to provide the service. We do not notify or advise the Council on what data we capture and process.

(b) We do not get approval from local authorities in relation to what protective measures we have in place. We are a Data Controller and are responsible in ensuring we comply with Data Protection Law. This is a processor clause and is not applicable.

c) this is a data processor clause and is not applicable. We would not request permission to share data with third parties. We are a Data Controller, and we ensure that we have a lawful basis under GDPR/Data Protection Act 2018 to share data.

(d) We would not request permission to transfer data but agree to the other conditions as we are a Data Controller we are responsible to ensure that any transfer of data is subject to the appropriate safeguards and in accordance with GDPR article 46. - Any transfer of Personal Data from Us to You shall, if such transfer would result in the transfer of Personal Data outside the UK/European Economic Area, only take place if the conditions laid down in Chapter V of the UK GDPR or GDPR (as applicable) are met.

The Provider and local authority both acknowledge that we each act as a separate and independent Controller in respect of all Personal Data processed under this Agreement and shall comply with all applicable requirements of Data Protection Law.

The Council acknowledges the need for Controller to Controller clauses and these will be added to the terms and conditions.

These clauses will remain as a reciprocal arrangement with the exception of reviewing protective measures.

20. Terms & Conditions Clause 25.6 (a) to (c) - We do not notify local authorities if we receive a SAR request. We are the Data Controller of the data we process and we respond to these requests directly with the data subjects, This applies to all other requests under the rights of individuals.

Reciprocal arrangements are stated in the Controller to Controller clauses.

21. Terms & Conditions Clause 25.6 (d) - As Data Controller we do not notify local authorities if we receive communication from the ICO. As Data Controller we would respond directly to the ICO.

Reciprocal arrangements are stated in the Controller to Controller clauses.

22. Terms & Conditions Clause 25.7 and 25.8 We would not notify the local authority if we - receive a request to share data and there is a lawful basis to share the information. As Data Controller we would be responsible in ensuring the lawful basis to share the data.

Reciprocal arrangements are stated in the Controller to Controller clauses.

23. Terms & Conditions Clause 25.6 (f) - We would only advise the local authority if the data loss had some impact on them. The provider shall notify You as soon as reasonably practicable after becoming aware that any Personal Data of a material number of data subjects has been affected by a data security breach which, under Data Protection Law is required to be notified to the affected data subjects.

Reciprocal arrangements are stated in the Controller to Controller clauses.

24. Terms & Conditions Clause 25.7 and 25.8 - See above. We are Data Controller so these clauses are not applicable

Reciprocal arrangements are stated in the Controller to Controller clauses.

25. Terms & Conditions Clause 25.12 - We would not notify a local authority when we onboard a sub processor. We are a Data Controller. We have our own lawful basis to process the data.

Reciprocal arrangements are stated in the Controller to Controller clauses.

26. Schedule 4 Clause 4.13 - When there is an unplanned absence do you get paid

Temporary absence is planned and unplanned

Schedule 4 details absence for all services, please refer to your specific service clause in 4.13

27. Schedule 15 clause 8.1 What is Clause 8.11 - cannot see it in

It is 8.11 of the Main Body of the Conditions of Contract, not in Schedule 15. Clause 8.11 relates to pre employment checks / DBS

28. Schedule 15 Safeguarding of Foreign Nationals is this mandatory?

Schedule 15 relates to "safeguarding and foreign nationals" and not "of". The schedule describes how you would approach gaining safeguarding / DBS information for foreign nationals. Therefore, this is what SCC expect from our providers contractually, whilst also adhering to all legal requirements.

29. Schedule 1 Clause 13 Activities- the clause states we are to provide support to enable people to join a variety of social activities, and monitored via a KPI for activities and events. Please could you confirm who will be funding the activities within the services?

This would be included in any payments we have agreed to pay you, what is detailed in the care plan for the individual. This is based on the individuals Care Act Assessment.

30. Schedule 1 The council have confirmed they will pay a wellbeing charge - please could you provide clarification on what this includes

From the information that ECH providers have supplied the Council the wellbeing charge can include night staff pay, activities, emergency calls. Based on different models in ECH, what is included in the wellbeing charge may differ.

31. Schedule 1 Please could the council confirm how many nightstaff they expect to be on duty in a scheme and how this is to be funded.

SCC would not state the number of staff required, it would be what is appropriate - please refer to the Health and Social Care Act 2008 (Regulated Activities) Regulations 2014: Regulation 18 Guidance on 18(1) "Providers must deploy sufficient numbers of suitably qualified, competent, skilled and experienced staff to make sure that they can meet people's care and treatment needs". "Providers should have a systematic approach to determine the number of staff and range of skills required in order to meet the needs of people using the service and keep them safe at all times".

32. Schedule 1 Please could you provide clarity on why Extra Care does not receive the locality rates.

The rate for Homecare was calculated to include travel and location - extra care is all in one location. Also the Locality Homecare Framework was a tendered service and bid for accordingly

33. Terms & Conditions Clause 37 Please confirm the Providers rights to terminate the contract. We can see the Provider has a right to terminate an individual placement but not the contract.

In the main body of the Terms & Conditions at clause 37.10, it states

37.10.1 In addition to its rights of termination under the Contract, either Party shall be entitled to terminate this Contract, without breach, in whole or in part by giving not less than 3 three months advance notice to that effect, in which case the provisions of Clause 38 shall apply. No further compensation or remedy shall be available to the Provider.

34. General We would like clarifying who pays costs on traveling to appointments, escorting to appointments and who funds the 1-1 care if needed.

This would be included in any payments we have agreed to pay you, what is detailed in the care plan for the individual. This is based on the individuals Care Act Assessment.

35. Reference to FAQ number 19 - 25

There are now 3 sets of Data Protection clauses dependent on

- GDPR clause if SCC is the Sole Data Controller
- GDPR clause – SCC and Contractor each a Controller
- GDPR clause – Contractor as Sole Controller

Full detail of clauses below and applicable to individual situations of data processing that will be added to the Terms & Conditions

25. DATA PROTECTION

GDPR clause if SCC is the Sole Data Controller.

- 25.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, We are the Controller and You are the Processor for the Personal Data within scope of this Agreement. The only processing of Personal Data that You are authorised to do is listed in the Data Processing Schedule by Us and may not be determined by You.
- 25.2 Each Party, including their sub-contractors and their staff, shall comply with all applicable requirements of the Data Protection Legislation. The provisions in this clause are in addition to, and do not relieve, remove or replace, a Party's obligations under the Data Protection Legislation. You shall give Us all reasonable assistance necessary to enable Us to comply with Our obligations under the Data Protection Legislation and to meet Our duties in the commissioning and delivery of the services. Each Party shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach, of the Data Protection Legislation.
- 25.3 You shall notify Us immediately if You consider that any of Our instructions infringe the Data Protection Legislation.
- 25.4 You shall provide all reasonable assistance to Us in the preparation of any Data Protection Impact Assessment prior to commencing any processing and during the term of this Agreement. Such assistance may, at Our discretion, include:
- 25.4.1 a systematic description of the envisaged processing operations and the purpose of the processing;
- 25.4.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
- 25.4.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
- 25.4.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 25.5 You shall, in relation to any Personal Data processed in connection with Your obligations under this Agreement:

25.5.1 process that Personal Data only in accordance with the Data Processing Schedule, unless You are required to do otherwise by Law. If it is so required, You shall promptly notify Us before processing the Personal Data unless prohibited by Law;

25.5.2 ensure that You have in place Protective Measures that comply with the Data Protection Legislation, which have been reviewed and approved by Us as appropriate, to protect against a Data Loss Event, having taken account of the:

- (i) nature of the data to be protected;
- (ii) harm that might result from a Data Loss Event;
- (iii) state of technological development; and
- (iv) cost of implementing any measures;

We reserve the right to review the Protective Measures at any point and You shall facilitate such review. Where the Protective Measures do not comply with the Data Protection Legislation, You shall implement any remedial changes to the Protective Measures requested by Us at your expense.

25.5.3 ensure that:

- (i) the Staff do not process Personal Data except in accordance with this Agreement (and in particular the Data Processing Schedule);
- (ii) You take all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with Your duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with You or any Sub-processor;
 - (C) 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 Us or as otherwise permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data.

25.5.4 not transfer Personal Data outside of the EEA or the UK unless Our prior written consent has been obtained and the following conditions are fulfilled:

- (i) We or You have provided appropriate safeguards in relation to the transfer (in accordance with UK GDPR Article 46) as determined by Us;
- (ii) the Data Subject has enforceable rights and effective legal remedies
- (iii) You comply with Your obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if You are not so bound, use Your best endeavours to assist Us in meeting Our obligations under the Data Protection Legislation); and
- (iv) You comply with any reasonable instructions notified to You in advance by Us with respect to the processing of the Personal Data.

25.5.5 at Our written direction, delete or return Personal Data (and any copies of it) to Us on termination of the Agreement unless You are required by Law to retain the Personal Data.

25.6 Subject to clause 25.7, You shall notify Us immediately if You:

25.6.1 receive a Data Subject Access Request (or purported Data Subject Access Request); and you shall follow our central process for the Personal Data within scope of this Agreement in the Data Processing Schedule;

25.6.2 receive a request to rectify, block or erase any Personal Data;

25.6.3 receive any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

25.6.4 receive any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

25.6.5 receive a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

25.6.6 become aware of a Data Loss Event.

25.7 Your obligation to notify under clause 25.6 shall include the provision of further information to Us in phases, as details become available.

25.8 Taking into account the nature of the processing, You shall provide Us with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 25.6 (and insofar as possible within the timescales reasonably required by Us) including by promptly providing:

25.8.1 Us with full details and copies of the complaint, communication or request;

25.8.2 such assistance as is reasonably requested by Us to enable Us to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;

25.8.3 Us, at Our request, with any Personal Data You hold in relation to a Data Subject;

25.8.4 assistance as requested by Us following any Data Loss Event;

25.8.5 assistance as requested by Us with respect to any request from the Information Commissioner's Office, or any consultation by Us with the Information Commissioner's Office;

25.9 You shall maintain complete and accurate records and information to demonstrate Your compliance with this clause. This requirement does not apply where You employ fewer than 250 staff, unless:

- 25.9.1 we determine that the processing is not occasional;
 - 25.9.2 we determine the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
 - 25.9.3 we determine that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 25.10 You shall allow for audits of Your Data Processing activity by Us or Our designated auditor.
- 25.11 You shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 25.12 Before allowing any Sub-processor to process any Personal Data related to this Agreement, You must:
- 25.12.1 notify Us in writing of the intended Sub-processor and processing;
 - 25.12.2 obtain Our written consent;
 - 25.12.3 enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause such that they apply to the Sub-processor; and
 - 25.12.4 provide Us with such information regarding the Sub-processor as We may reasonably require.
- 25.13 You shall remain fully liable for all acts or omissions of any Sub-processor.
- 25.14 The Parties agree to take account of any ruling and/or guidance issued by the Information Commissioner's Office.
- 25.15 We may in complying with a statutory obligation or any guidance issued by the Information Commissioner's Office on not less than thirty (30) Working Days' notice, revise this clause by amending, revising or replacing it with any provisions which are compliant and/or any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

GDPR clause – SCC and Contractor each a Controller

- 25.1 The Parties acknowledge that for the purposes of the Data Protection Legislation each Party is a Controller at different stages for the Personal Data within scope of this Agreement. The Parties agree that Personal Data will only be processed in accordance with the Data Processing Schedule.
- 25.2 Each Party, including their sub-contractors and their staff, shall comply with all applicable requirements of the Data Protection Legislation. The provisions in this clause are in addition to, and do not relieve, remove or replace, a Party's obligations under the Data Protection Legislation. You shall give Us all reasonable assistance necessary to enable Us to comply with Our obligations under the Data Protection

Legislation and to meet Our duties in the commissioning and delivery of the services. Each Party shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach, of the Data Protection Legislation.

25.3 Each party shall notify the other Party if they consider that any of the instructions in the Data Processing Schedule infringe the Data Protection Legislation.

25.4 You shall provide all reasonable assistance to Us in the preparation of any Data Protection Impact Assessment prior to commencing any processing and during the term of this Agreement. Such assistance may, at Our discretion, include:

25.4.1 a systematic description of the envisaged processing operations and the purpose of the processing;

25.4.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

25.4.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

25.4.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

25.5 Each Party shall, in relation to any Personal Data processed in connection with their obligations under this Agreement:

25.5.1 process that Personal Data only in accordance with the Data Processing Schedule, unless required to do otherwise by Law. If it is so required, each Party shall promptly notify the other Party before processing the Personal Data unless prohibited by Law;

25.5.2 ensure that it has in place Protective Measures which have been reviewed and approved by the other Party as appropriate, to protect against a Data Loss Event, having taken account of the:

- (i) nature of the data to be protected;
- (ii) harm that might result from a Data Loss Event;
- (iii) state of technological development; and
- (iv) cost of implementing any measures;

We reserve the right to review the Protective Measures at any point and You shall facilitate such review. Where the Protective Measures do not comply with the Data Protection Legislation, You shall implement any remedial changes to the Protective Measures requested by Us at your expense.

25.5.3 ensure that:

- (i) their Staff do not process Personal Data except in accordance with this Agreement (and in particular the Data Processing Schedule);
- (ii) it takes all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with Your duties under this clause;
- (B) are subject to appropriate confidentiality undertakings with that Party or any Sub-processor;
- (C) 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 other Party or as otherwise permitted by this Agreement; and
- (D) have undergone adequate training in the use, care, protection and handling of Personal Data.

25.5.4 not transfer Personal Data outside of the EEA or the UK unless the prior written consent of the other Party has been obtained and the following conditions are fulfilled:

- (i) the transferring Party has provided appropriate safeguards in relation to the transfer (in accordance with UK GDPR Article 46) as determined by the other Party;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) the Transferring Party complies with all their obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if the transferring Party is not so bound, uses their best endeavours to assist both Parties in meeting their obligations under the Data Protection Legislation); and
- (iv) the transferring Party complies with any instructions agreed in advance by both Parties (as Controllers) with respect to the processing of the Personal Data

25.5.5 at the written direction of the other Party, delete or return Personal Data (and any copies of it) to the other Party on termination of the Agreement unless it is required by Law to retain the Personal Data.

25.6 Subject to clause 25.7, each Party shall notify the other Party immediately if it:

25.6.1 receives a Data Subject Access Request (or purported Data Subject Access Request); and shall follow Our central process for the Personal Data within scope of this Agreement in the Data Processing Schedule;

25.6.2 receives a request to rectify, block or erase any Personal Data;

25.6.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

25.6.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

25.6.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

- 25.6.6 becomes aware of a Data Loss Event.
- 25.7 The Parties' obligation to notify under clause 25.6 shall include the provision of further information to the other Party in phases, as details become available.
- 25.8 Taking into account the nature of the processing, each Party shall provide the other Party with full assistance in relation to the Parties' obligations as Controllers under the Data Protection Legislation and any complaint, communication or request made under clause 25.6 (and insofar as possible within the timescales reasonably required by the other Party) including by promptly providing:
- 25.8.1 the other Party with full details and copies of the complaint, communication or request;
 - 25.8.2 such assistance as is reasonably requested by the other Party to enable it to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
 - 25.8.3 the other Party, at their request, with any Personal Data it holds in relation to a Data Subject;
 - 25.8.4 assistance as requested by the other Party following any Data Loss Event;
 - 25.8.5 assistance as requested by the other Party with respect to any request from the Information Commissioner's Office, or any consultation by the other Party with the Information Commissioner's Office;
- 25.9 Each Party shall maintain complete and accurate records and information to demonstrate their compliance with this clause. This requirement does not apply where a Party employs fewer than 250 staff, unless:
- 25.9.1 the Parties determine that the processing is not occasional;
 - 25.9.2 the Parties determine that the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
 - 25.9.3 the Parties determine that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 25.10 Each Party shall allow for audits of the records and information referred to in clause 25.9 by the other Party or their designated auditor.
- 25.11 Each Party shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 25.12 Before allowing any Sub-processor to process any Personal Data related to this Agreement, each Party must:

25.12.1 notify the other Party in writing of the intended Sub-processor and processing;

25.12.2 obtain the other Party's written consent;

25.12.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause such that they apply to the Sub-processor; and

25.12.4 provide the other Party with such information regarding the Sub-processor as the other Party may reasonably require.

25.13 Each Party shall remain fully liable for all acts or omissions of any Sub-processor.

25.14 The Parties agree to take account of any ruling and/or guidance issued by the Information Commissioner's Office.

25.15 We may in complying with a statutory obligation or any guidance issued by the Information Commissioner's Office on not less than thirty (30) Working Days' notice, revise this clause by amending, revising or replacing it with any provisions which are compliant and/or any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).

GDPR clause – Contractor as Sole Controller

25.1 The Parties acknowledge that for the purposes of the Data Protection Legislation You are the Controller for the Personal Data within scope of this Agreement. You have outlined the Personal Data and the purposes of the processing in the Data Processing Schedule.

25.2 Each Party, including their sub-contractors and their staff, shall comply with all applicable requirements of the Data Protection Legislation. The provisions in this clause are in addition to, and do not relieve, remove or replace, a Party's obligations under the Data Protection Legislation. You shall give Us all reasonable assistance necessary to enable Us to comply with Our obligations under the Data Protection Legislation and to meet Our duties in the commissioning and delivery of the services. Each Party shall not knowingly or negligently by any act or omission, place the other Party in breach, or potential breach, of the Data Protection Legislation.

25.3 You shall notify Us immediately if You consider that any of the instructions in the Data Processing Schedule infringe the Data Protection Legislation.

25.4 You shall provide all reasonable assistance to Us in the preparation of any Data Protection Impact Assessment prior to commencing any processing and during the term of this Agreement. Such assistance may, at Our discretion, include:

25.4.1 a systematic description of the envisaged processing operations and the purpose of the processing;

- 25.4.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - 25.4.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 25.4.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 25.5 You shall carry out your own data protection impact assessment, a copy of which must be provided to Us.
- 25.6 You shall, in relation to any Personal Data processed in connection with Your obligations under this Agreement:
- 25.6.1 process that Personal Data only in accordance with the Data Processing Schedule, unless You are required to do otherwise by Law. If it is so required, You shall promptly notify Us before processing the Personal Data unless prohibited by Law;
 - 25.6.2 ensure that You have in place Protective Measures, as appropriate to protect against a Data Loss Event, having taken account of the:
 - (i) nature of the data to be protected;
 - (ii) harm that might result from a Data Loss Event;
 - (iii) state of technological development; and
 - (iv) cost of implementing any measures;

We reserve the right to review the Protective Measures at any point and You shall facilitate such review. Where the Protective Measures do not comply with the Data Protection Legislation, You shall implement any remedial changes to the Protective Measures requested by Us at your expense.

25.6.3 ensure that:

- (i) the Staff do not process Personal Data except in accordance with this Agreement (and in particular the Data Processing Schedule);
- (ii) You take all reasonable steps to ensure the reliability and integrity of any Staff who have access to the Personal Data and ensure that they:
 - (A) are aware of and comply with Your duties under this clause;
 - (B) are subject to appropriate confidentiality undertakings with You or any Sub-processor;
 - (C) 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 permitted by this Agreement; and
 - (D) have undergone adequate training in the use, care, protection and handling of Personal Data.

25.6.4 not transfer Personal Data outside of the EEA or the UK unless the following conditions are fulfilled:

- (i) You have provided appropriate safeguards in relation to the transfer (in accordance with UK GDPR Article 46) as determined by Us;
- (ii) the Data Subject has enforceable rights and effective legal remedies;
- (iii) You comply with Your obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if You are not so bound, use Your best endeavours to assist both Parties in meeting their obligations under the Data Protection Legislation); and
- (iv) You comply with any instructions agreed in advance by both Parties (You as Controller and Us as commissioner of a service) with respect to the processing of the Personal Data.

25.6.5 at Our written direction, delete or return Personal Data that has been provided by Us (and any copies of it) on termination of the Agreement unless You are required by Law to retain the Personal Data.

25.7 Subject to clause 25.8, You shall undertake the following tasks as Controller:

25.7.1 deal with Data Subject Access Requests (or purported Data Subject Access Requests) for the Personal Data within scope of this Agreement;

25.7.2 receive a request to rectify, block or erase any Personal Data;

25.7.3 receive any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

25.7.4 receive any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;

25.7.5 receive a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

25.7.6 deal with Data Loss Events and information security incident reporting and management.

25.8 You shall, where required by the Data Processing Schedule, notify Us of any request, communication or event referred to in clause 25.7.

25.9 Taking into account the nature of the processing, You as Controller (and Us as commissioner of a service) shall provide us with full assistance in relation to Your obligations as Controller under the Data Protection Legislation in the event of a complaint, communication or request made under clause 25.7:

25.10 You shall maintain complete and accurate records and information to demonstrate Your compliance with this clause. This requirement does not apply where a You employ fewer than 250 staff, unless:

- 25.10.1 both Parties determine that the processing is not occasional;
- 25.10.2 both Parties determine that the processing includes special categories of data as referred to in Article 9(1) of the UK GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the UK GDPR; and
- 25.10.3 both Parties determine that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 25.11 You shall allow for audits of Your Data Processing activity by Us or Our designated auditor where required by this Agreement.
- 25.12 You shall designate a Data Protection Officer if required by the Data Protection Legislation.
- 25.13 Before allowing any Sub-processor to process any Personal Data related to this Agreement, You must:
- 25.13.1 notify Us in writing of the intended Sub-processor and processing;
- 25.13.2 obtain Our written consent;
- 25.13.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause such that they apply to the Sub-processor; and
- 25.13.4 provide Us with such information regarding the Sub-processor as We may reasonably require.
- 25.14 You shall remain fully liable for all acts or omissions of any Sub-processor.
- 25.15 You agree to take account of any ruling and/or guidance issued by the Information Commissioner's Office.
- 25.16 We may in complying with a statutory obligation or any guidance issued by the Information Commissioner's Office on not less than thirty (30) Working Days' notice, revise this clause by amending, revising or replacing it with any provisions which are compliant and/or any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Agreement).