

**THIS AGREEMENT** is made the            day of            2019

**BETWEEN:**

- (1) The Police and Crime Commissioner for Leicestershire of Leicestershire Police Force Headquarters, St. Johns, Enderby, Leicestershire, LE19 2BX (the “**PCC**”); and
- (2) [REDACTED] (the “**Beneficiary**”);

each of the PCC and the Beneficiary being a **Party** and together the PCC and the Beneficiary are the **Parties**.

## **THE PARTIES AGREE AS FOLLOWS**

### **1 Commencement and Duration**

The rights and obligations of the Parties under this Agreement shall be deemed to have taken effect on the date of this Agreement and shall, unless terminated earlier in accordance with this Agreement, continue in force until 1 year after the commencement of this Agreement whereupon this Agreement shall expire automatically.

### **2 Funding Conditions**

- 2.1 The amount of the funding to be paid under this Agreement is £ [REDACTED] (the “Funding”).
- 2.2 The Beneficiary shall use the Funding:
  - 2.2.1 for the following purposes only: [REDACTED] as described in further detail in the Appendix (the “Funded Service”);
  - 2.2.2 to achieve the objectives for the Funded Service agreed by the Parties (the “Objectives”); and
  - 2.2.3 in accordance with the terms and conditions of this Agreement.
- 2.3 The Beneficiary shall only use the Funding in respect of eligible expenditure. The following costs are not eligible expenditure: payments that support activity intended to influence or attempt to influence parliament, government or political parties, or attempting to influence the awarding or renewal of contracts and grants, or attempting to influence legislative or regulatory action.
- 2.4 The Beneficiary shall not be permitted to change, amend or vary the purposes, scope or nature of the Funded Service without the prior written consent of the PCC.

### **3 Payment of the Funding**

- 3.1 The PCC shall pay the Funding to the Beneficiary in such reasonable instalments specified by the PCC to the Beneficiary's nominated bank account notified to the PCC in writing on or before the date of this Agreement.
- 3.2 If any amount due under this Agreement is subject to VAT or any other tax, the PCC shall not be responsible to pay to the Beneficiary for that VAT or other tax in addition to the Funding.
- 3.3 The Beneficiary shall notify the PCC as soon as reasonably practicable if any underspend is forecast.
- 3.4 If an overpayment of the Funding is made at any time, the Beneficiary shall repay any overpayment within 30 days of receiving any request for repayment from the PCC.
- 3.5 Within 30 days of the end of each financial year of the duration of this Agreement, the Beneficiary shall repay to the PCC any unspent Funding for that financial year.

### **4 Safeguarding**

- 4.1 In this Clause 4, the following terms shall have the following meanings:
  - 4.1.1 “DBS” means the Disclosure and Barring Service;
  - 4.1.2 “Regulated Activity” in relation to children, has the meaning given in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006, and in relation to vulnerable adults,

- has the meaning in Part 2 of Schedule 4 of the Safeguarding Vulnerable Groups Act 2006;
- 4.1.3 “Regulated Activity Provider” has the meaning given to it in section 6 of the Safeguarding Vulnerable Groups Act 2006;
  - 4.1.4 “Relevant Staff” means any and all individuals who are (or are to be) engaged by the Beneficiary to provide a Regulated Activity; and
  - 4.1.5 “Victim” means any victim of crime as defined in Code of Practice for Victims of Crime (2015), introduction paragraphs 16 and 20-30.
- 4.2 The Funded Service must be in the interests of the Victim and be:
- 4.2.1 free of charge;
  - 4.2.2 confidential;
  - 4.2.3 non-discriminatory (including being available to all regardless of residence status, nationality or citizenship);
  - 4.2.4 available whether or not a crime has been reported to the police; and
  - 4.2.5 available before, during and for an appropriate time after any police investigation or criminal proceedings.
- 4.3 Where, in relation to the Funded Service, the Beneficiary is a Regulated Activity Provider with ultimate responsibility for the management and control of a Regulated Activity, it shall:
- 4.3.1 ensure that all Relevant Staff are subject to a valid enhanced disclosure check for the Regulated Activity undertaken through the DBS prior to commencing any Regulated Activity;
  - 4.3.2 monitor the level and validity of the checks undertaken pursuant to Clause 4.3.1 for all Relevant Staff;
  - 4.3.3 not employ or use the services of any person who is barred from, or whose previous conduct or records indicate that he or she would not be suitable to carry out Regulated Activity or who may otherwise present a risk to Victims, service users, children or vulnerable adults;
  - 4.3.4 have a suitable procedure for dealing with allegations or suspicions of abuse (which the PCC may request to see);
  - 4.3.5 train all Relevant Staff at induction (and provide them with further refresher training) in the proactive prevention of abuse of children and adults, in the identification of relevant incidents and in following the reporting procedures;
  - 4.3.6 have in place a workforce development plan that includes appropriate competencies for its staff in relation to safeguarding adults and children work;
  - 4.3.7 adhere to rigorous recruitment practices to deter those who actively seek vulnerable people to exploit or abuse;
  - 4.3.8 maintain a proactive approach to prevent abuse;
  - 4.3.9 ensure (and upon request provide evidence to demonstrate) that the Mental Capacity Act 2005 is integral to:
    - (a) its care of children and vulnerable adults; and
    - (b) the management of safeguarding concerns;
  - 4.3.10 address issues around bullying and have in place an anti-bullying policy which is linked to its safeguarding procedures as appropriate;
  - 4.3.11 ensure that all Relevant Staff and service users are be made aware of the anti-bullying policy and that relevant training on that policy is given to Relevant Staff; and
  - 4.3.12 notify the PCC immediately of all instances of suspected abuse pertaining to the Funded Service.

- 4.4 The Beneficiary shall immediately provide to the PCC any relevant information reasonably requested by the PCC to enable the PCC to be satisfied that the obligations of this Clause 4 have been met.
- 4.5 The Beneficiary shall immediately refer to the DBS information about any person in respect of whom it declines or withdraws permission to be involved in the Funded Service (or would have done so, if that person had not otherwise ceased to be involved in the Funded Service) because, in its opinion, that person has harmed or poses a risk of harm to Victims, service users, children or vulnerable adults.
- 4.6 The Beneficiary warrants that it has undertaken all appropriate disclosure checks through the DBS and, having undertaken such checks, has no reason to believe that any Relevant Staff are barred from providing the Regulated Activity in accordance with the provisions of the Safeguarding Vulnerable Groups Act 2006.
- 4.7 The Beneficiary shall comply, and shall (at its own expense) ensure that its employees, agents and representatives shall comply, with all applicable Laws (including in relation to the safeguarding of children and adults) in the performance of the Beneficiary's duties under this Agreement, provided that the Beneficiary shall not be liable for any breach to the extent that such breach is directly caused or contributed to by any negligent act or omission of, or breach of this Agreement by, the PCC or its employees, agents and representatives.

## **5 Warranties**

- 5.1 The Beneficiary warrants and represents to the PCC that:
  - 5.1.1 it has the right, power and authority to enter into this Agreement and to perform its obligations under this Agreement;
  - 5.1.2 all information provided by the Beneficiary to the PCC is at the date of this Agreement true and accurate and that it is not aware, to the best of its knowledge and belief (having made all reasonable enquiries), that any change will occur after the date of this Agreement which will render that information untrue or misleading in any respect and that there has been no material adverse change in the business, assets, operation or prospects of the Beneficiary that will affect the Funded Service since the date any information was provided;
  - 5.1.3 none of the information provided by the Beneficiary to the PCC infringes the copyright, trade marks, designs or other intellectual property rights of any third party; and
  - 5.1.4 the Funded Service shall be performed:
    - (a) by suitably qualified and competent personnel who shall exercise all due skill and care and all due diligence in the execution of those services; and
    - (b) so as to conform with all applicable Law relating to those services.

## **6 Data Protection**

- 6.1 The Beneficiary, as Controller for any Personal Data used for Processing in connection with the Funded Service, shall comply with all of its obligations under Data Protection Law and shall not indicate to any Data Subject that the PCC is a Controller or Processor of that Personal Data.
- 6.2 For the purposes of this clause 6,
  - 6.2.1 "Data Protection Law" means the Data Protection Act 2018, the General Data Protection Regulation (EU Regulation 2016/679), the Law Enforcement Directive (EU Directive 2016/680), EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all other applicable laws relating to Processing of Personal Data and privacy, including any guidance and codes of practice issued by the Information Commissioner;
  - 6.2.2 the terms "Controller", "Personal Data", "Processing", "Data Subject" and "Processor" have the meaning given them in Data Protection Law.

- 6.3 The Beneficiary shall permit representatives of the Ministry of Justice to examine de-personalised data collected for the purposes of evaluation and ongoing performance monitoring of the Funding and other funding provided by the Ministry of Justice or the PCC for any support service for Victims.

## **7 Freedom of Information and Transparency Obligations**

- 7.1 The Beneficiary acknowledges that the PCC is subject to the requirements of the Freedom of Information Act 2000 ("FOIA"), the Environmental Information Regulations 2004 ("EIR") and the Elected Local Policing Bodies Specified Information Order 2011 ("Information Order") (each as amended from time to time).
- 7.2 The Beneficiary shall assist and co-operate with the PCC (at the Beneficiary's expense) to enable the PCC to comply with the requirements of the FOIA and EIR, including but not limited to transferring (or procuring the transfer) to the PCC any request for information pursuant to the FOIA or EIR received by the Beneficiary (or any of its sub-contractors) as soon as practicable following receipt and in any event within three days of receipt.
- 7.3 The Beneficiary shall not respond to a request for information under the FOIA or the EIR without the prior written consent of the PCC.
- 7.4 The Beneficiary gives consent to the PCC to publish the contents of this Agreement and information regarding any tender process related to the Funded Service to enable the PCC to comply with the Information Order.
- 7.5 The Beneficiary acknowledges that:
- 7.5.1 the PCC shall be responsible for determining, at its absolute discretion, whether any information is exempt from disclosure or should be disclosed pursuant to the FOIA, EIR and/or the Information Order and to what extent it may or shall redact any information disclosed; and
- 7.5.2 any lists or schedules provided by the Beneficiary outlining confidential information are of an indicative value only and that the PCC may be obliged to disclose confidential information in accordance with the FOIA, EIR and/or Information Order without the Beneficiary's consent.

## **8 Discrimination**

- 8.1 The Beneficiary shall not (and shall use all reasonable endeavours to procure that its employees, agents and sub-contractors shall not) unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age.

## **9 Review, Monitoring and Information**

- 9.1 The Beneficiary shall provide to the PCC such information, and any supporting documentation, in relation to the performance of its obligations and compliance with applicable law required under this Agreement (including information in respect of progress towards achieving the Objectives) as the PCC may reasonably request from time to time. The Beneficiary shall provide any such information to the PCC in the format and within the timescales as the PCC reasonably requests from time to time. The Beneficiary shall ensure that all such information is accurate and complete and, in respect of any information required by the PCC for tendering purposes, shall notify the PCC without delay of any changes to information previously provided to the PCC.
- 9.2 The Beneficiary shall meet with the PCC from time to time, at such intervals and in such places reasonably requested by the PCC, in order to discuss the Funded Service and/or progress towards achieving the Objectives and to identify any lessons learned for future projects and/or future grants of funding. The PCC shall be permitted to share information arising from such meetings with the chief constable of its police force and/or with policing bodies and/or chief constables of other police forces.

## **10 Publicity**

- 10.1 The Beneficiary shall acknowledge the Funding in its annual report and accounts, including an acknowledgement that the PCC was the source of the Funding, in a form reasonably acceptable to the PCC.

- 10.2 The Beneficiary shall not (and shall use all reasonable endeavours to ensure that its employees, agents, professional advisers and sub-contractors shall not) include in any published material the name, logo or style of "Leicestershire Police" nor "the Police and Crime Commissioner for Leicestershire"; any Intellectual Property Rights associated therewith; nor any photograph or drawing depicting any officer of Leicestershire Police force without the PCC's prior written consent.

## **11 Termination**

- 11.1 This Agreement does not represent a commitment to renew or continue financial support to the Beneficiary for the Funded Service or any other purpose and the PCC gives no warranty or assurance that further Funding will be made available after the termination or expiry of this Agreement.
- 11.2 The PCC may, without prejudice to its other rights and remedies, by notice in writing to the Beneficiary immediately terminate this Agreement if the Funding or any part of the Funding is being used other than in accordance with the terms set out in this Agreement.
- 11.3 In the event of termination of this Agreement for any reason or upon its expiry:
- 11.3.1 the PCC shall not be liable to make any payment of any unpaid or future instalments of the Funding;
- 11.3.2 each Party shall within 7 days of such termination or expiry return (or, at the other Party's option, destroy) all information belonging to the other Party in its possession or under its control and all copies of such information; and
- 11.3.3 the Beneficiary shall:
- (a) return to the PCC any PCC assets or PCC property (unless the PCC gives its written consent to their retention or sale) that are in its possession; and
- (b) repay to the PCC any unspent Funding within 7 days, to the bank account notified to the Beneficiary in writing on or before termination or expiry.
- 11.4 Termination of this Agreement for whatever reason shall not operate to affect any provisions that expressly or by implication survive termination.

## **12 Variation**

- 12.1 No amendment or variation to this Agreement shall have effect unless made in writing and executed on behalf of the Parties.

## **13 Relationship**

- 13.1 The Parties are independent entities and not partners, principal and agent, or employer and employee, or in any other relationship of trust to each other. Nothing in this Agreement shall create a partnership or joint venture between the Parties nor authorise any Party to enter into any contact or commitment for and/or on behalf of the other Party.

## **14 Waiver**

- 14.1 The failure of either Party to insist upon strict performance of any provision of this Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by this Agreement.
- 14.2 No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing.
- 14.3 A waiver of any right or remedy arising from a breach of this Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of this Agreement.

## **15 Entire Agreement**

- 15.1 This Agreement constitutes the entire agreement and understanding between the Parties and supersedes any previous arrangement, understanding or agreement between them relating the Funded Service.
- 15.2 The Beneficiary acknowledges and agrees that it has not been induced to enter into this Agreement in reliance upon, and in connection with this Agreement, it does not rely on, and

shall have no remedy and waives all rights in respect of, any statement, representation, warranty, undertaking or understanding of any nature whatsoever (whether negligently or innocently made) of any person (whether Party to this Agreement or not) other than as expressly set out in this Agreement.

15.3 Nothing in this Clause 15 shall exclude or limited either Party's liability in respect of any fraudulent misrepresentation.

**16 Counterparts**

16.1 This Agreement may be executed in counterparts, each of which when executed and delivered shall constitute an original but all counterparts together shall constitute one and the same instrument.

**17 Governing Law**

17.1 This Agreement and any issues or disputes arising out of or in connection with it (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with the law of England and the Parties irrevocably submit to the exclusive jurisdiction of the English courts.

This Agreement has been entered into on the date first above written

**Signed** for and on behalf of  
**the Police and Crime**  
**Commissioner for Leicestershire:**

.....  
Authorised Officer

**Signed** for and on behalf of



.....  
Authorised Officer

**The Appendix (Original application)**