

DATED 2016

**THE MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF ISLINGTON**

and

QUALITY EDUCATION SOLUTIONS LIMITED

**CONTRACT FOR THE SUPPLY AND MAINTENANCE OF
A DATABASE MATCHING TOOL AND DATA WAREHOUSE
(CONTRACT NUMBER 1516-822)**

**Assistant Chief Executive
(HR and Governance)
Town Hall
Upper Street
London N1 2UD**

Ref. MAF/SSC/323

BETWEEN

- (1) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF ISLINGTON** of the Town Hall, Upper Street, London N1 2UD (hereinafter referred to as “the Council”)
and
- (2) **QUALITY EDUCATION SOLUTIONS LIMITED** having its registered address at Unit 3, Damery Works, Damery Lane, Woodford, Gloucestershire, GL13 9JR (company number 4700102) (hereinafter referred to as the “the Supplier”)

(hereinafter collectively referred to as the “Parties”)

IT IS AGREED AS FOLLOWS

1. The Council requires The Supplier to provide the Programs and the Services and the Supplier has agreed to do so.
2. In consideration of the supply of the Programs and the Services by the Supplier in accordance with the Contract, the Council will pay the Supplier the Fees or such other sum as may become payable hereunder at the times and in the manner specified herein.
3. The Contract incorporates the following:
 - (a) Terms and Conditions
 - (b) Schedule 3 - Charges & Payment Schedule
 - (c) Schedule 5 - Data Protection
 - (d) Schedule 6 – Security Standards
 - (e) Schedule 1- Specification
 - (f) Schedule 4 - Maintenance & Support
 - (g) Schedule 2 - The Supplier’s Proposals
 - (h) The representations made by the Supplier referred to in clause 8 (if any)
4. In the event of any conflict or inconsistency between any of the documents listed in clause 3 above, the order of precedence shall be the order in which they are listed herein.

TERMS AND CONDITIONS

1. DEFINITIONS

- 1.1 **"Acceptance Test"** means the acceptance tests that are to be carried out by the Council pursuant to this Contract.
- 1.2 **"Contract Period"** means the period specified to in clause 2A during which this Contract is in full force and effect.
- 1.3 **"Fees"** shall mean the charges set out in Schedule 3.
- 1.4 **"Go Live Date"** shall mean the date when the Program is accessible, has passed the Acceptance Test and is fully operational.
- 1.5 **"Licence"** shall mean the licence to use the Program, granted by the Supplier to the Council pursuant to this Contract.
- 1.6 **"Program"** shall mean the web based solution identified in Schedules 1 and 2 that is to be supplied by the Supplier pursuant to this Contract, and shall include any replacements, modifications or additions thereto supplied under this Contract.
- 1.7 **"Schedule"** shall mean a schedule to the Terms and Conditions.
- 1.8 **"Services"** shall mean all services described in these Terms and Conditions and Schedules 1, 2 and 4 that are to be provided by the Supplier in connection with the Programs pursuant to this Contract.
- 1.9 **"Terms and Conditions"** shall mean these terms and conditions.

2A. CONTRACT PERIOD

- 2A.1 This Contract shall commence on **7 March 2016** and shall continue for a period of **3 years** until **6 March 2019** unless terminated earlier in accordance with the terms of this Contract.
- 2A.2 The Council may wish to extend the Contract Period by up to **2 years**.

2. GRANT OF LICENCE TO USE THE PROGRAM

- 2.1 The Supplier hereby grants to the Council a non-exclusive, non-transferable Licence to use the Program on the terms and conditions contained herein and for the Contract Period. Although the license is non-transferable the Program may be operated by contracted staff on behalf of the Council for the Council's business and the other potential users referred to in Clause 5 below.

3. DELIVERY OF THE SERVICES

- 3.1 The Supplier shall perform the Services in accordance with the requirements set out in this Contract or, where requirements are not specified in this Contract, the Supplier shall perform the Services with reasonable skill and care and in accordance with good industry practice.
- 3.2 The Supplier shall have the web-based solution available by **15 April 2016**

4. TERMS OF PAYMENT

- 4.1 In consideration of the supply and use of the Program and performance of the Services by the Supplier in accordance with this Contract, the Council shall pay the Fees in accordance with Schedule 3 and this clause 4.
- 4.2 The Fees shall be paid by the Council in instalments. The Supplier shall issue an invoice for each such instalment. Such invoices shall specify in detail the software and/or Services for which payment is claimed. Invoices shall be paid by the Council within 30 days of receipt subject to clause 4.4 below.
- 4.3 If the Council fails to pay any sum (other than a sum withheld pursuant to clause 4.4) within said 30 day period, the Supplier shall be entitled to be paid interest on the outstanding sum at the bank base rate plus 2% per annum from the date the 30 day period lapsed until the date such sum is paid.

Right to withhold payment in the event of dispute

- 4.4 If the Supplier has breached or is in breach of its obligations under this Contract, the Council shall be entitled to withhold such proportion of any sum invoiced by the Supplier pursuant to clause 4.2 as may be appropriate to compensate the Council in respect of the breach. For the avoidance of doubt, the Council's entitlement to withhold payment under this clause shall not in any way limit the Council's other rights or remedies (or the Supplier's obligations) pursuant to this Contract or otherwise.

5. USE OF THE PROGRAM

- 5.1 The Program shall be used only for the Council's own data processing and that of the Council's subsidiaries, which includes but is not limited to Schools, Academy Schools, PVI's and children's centres and shall not be used to provide a data processing service to any other third party whether by trade or otherwise. Notwithstanding the foregoing, nothing in this clause shall prevent or prohibit the use of the Program for any purpose(s), by any person(s) and/or in any way(s) specified in Schedule 1.
- 5.2 The Council shall permit the Supplier, at all reasonable times and at the Supplier's expense, to verify that the use of the Program is within the terms of the Licence.

6. DOCUMENTATION

- 6.1 The Supplier shall supply to the Council documentation and user manuals specific to the Program, together with further technical documentation and instructions if required.

6A. ACCEPTANCE TESTING

- 6A.1 Following the supply and availability of the Program, where relevant, the Council will within 30 working days carry out and complete tests to determine whether the Program (and any relevant Services) are in accordance with the Council's requirements set out in Schedule 1.
- 6A.2 The Council shall accept the Program immediately after the Acceptance Test if by the end of the said 30 working day period the Supplier has demonstrated to the satisfaction of the Council that the Program (and any relevant Services) are in accordance with the Council's requirements set out in Schedule 1.

- 6A.3 If, at the end of the said 30 working day period, any Program (or relevant Service) does not comply with the Council's requirements set out in Schedule 1, the Council shall notify the Supplier and the Supplier shall, within a further 5 working days, correct the non-compliance.
- 6A.4 If within the said 5 working day period the Supplier corrects the non-compliance to the satisfaction of the Council, the Council shall accept the Program.
- 6A.5 If, at the end of the said 5 working day period, the Supplier has failed to correct the non-compliance, the Council may terminate this Contract with immediate effect by giving notice to the Supplier. Within 10 working days of such termination, all amounts paid by the Council to the Supplier pursuant to this Contract shall be repaid to the Council. The Council shall have no liability to the Supplier whatsoever as a consequence of such termination.

7. MAKING COPIES OF THE PROGRAM

- 7.1 The Council may only make such copies of the Program, and/or provide additional access through provision of logins as are necessary for its operational use and security. The Licence shall apply to such copies on an identical basis to the way the Licence applies to the Program.

8. WARRANTIES

- 8.1 The Supplier warrants that the Program will perform substantially in accordance with all representations made:
- (a) In Schedule 2;
 - (b) In any vendor end-use documentation applicable to the Program; and
 - (c) By the Supplier or its agents, whether in person or in writing, prior to the execution of this Contract.
- 8.2 The Supplier warrants that the media on which the Program is provided will be free from defects in materials and workmanship under normal use.

9. UPDATES & UPGRADES

- 9.1 Updates to the Program may be indicated by a change to the version number after the decimal (e.g. version 3.1 may become version 3.2). New versions of the Program may be indicated by changes to the version number before the decimal (e.g. version 4.0 may become version 5.0).
- 9.2 Updates to, and new versions of, the Program will be made available by Supplier to the Council free of charge.
- 9.3 The Council may at its sole discretion choose whether to implement any updates or new versions of the Program proposed by the Supplier.

10. MODIFYING

- 10.1 The Council shall not, without the prior written consent of the Supplier, modify the Program or incorporate the Program into software not provided by the Supplier. This precludes outputs from the Program, such as data reports or data extracts, which remain the property of the Council, and shall be at the discretion of the Council.

11. OWNERSHIP

- 11.1 Title, copyright and all the proprietary rights in the Program and the Program documentation, and all parts and copies thereof, shall remain vested in the Supplier.
- 11.2 The Council shall follow all reasonable instructions given by the Supplier from time to time with regard to the use of trade marks owned by the Supplier and other indications of the property and rights of the Supplier.

12. ASSIGNMENT

- 12.1 Neither party shall assign any of its rights or obligations under this Contract without the prior written consent of the other party, which shall not be unreasonably withheld or delayed.
- 12.2 This Contract shall be binding upon, and inure to the benefit of, the Parties and their respective successors and permitted assignees, and references to a party in this Contract shall include its successors and permitted assignees.

13. COPYRIGHT INDEMNITY

- 13.1 The Supplier shall fully indemnify the Council against all damages, costs, charges and expenses arising from or incurred by reason of any infringement of copyright in consequence of the authorised use or possession of the Program or Program documentation supplied by the Supplier under the Contract, subject to the following:
 - 13.1.1 the Council shall promptly notify the Supplier in writing of any alleged infringement of which he has notice.
 - 13.1.2 the Council must make no admissions without the Supplier's prior written consent.
 - 13.1.3 the Council, at the Supplier's request and expense shall allow the Supplier to conduct any negotiations or litigation and/or settle any claim. The Council, at the Supplier's expense, shall give the Supplier all reasonable assistance. The costs incurred or recovered in such negotiations or settled claim shall be for the Supplier's account.
- 13.2 If at any time an allegation of infringement of copyright is made in respect of the Program or the Program documentation, or if in the Supplier's reasonable opinion such an allegation is likely to be made, the Supplier may at his own expense:
 - 13.2.1 obtain for the Council the right to continue using the Program, or
 - 13.2.2 modify or replace the Program so as to avoid the infringement, without detracting from overall performance, or

13.2.3 if conditions 13.2.1 or 13.2.2 cannot be accomplished on reasonable terms, refund the Fees, whereupon the Contract shall terminate.

14. INDEMNITY AND INSURANCE

- 14.1 The Supplier shall indemnify and keep indemnified the Council against injury (including death) to any persons or loss of or damage to any property (including the Program if applicable) which may arise out of the act, default or negligence of the Supplier, his employees or agents in consequence of the Supplier's obligations under the Contract and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, provided that the Supplier shall not be liable for nor be required to indemnify the Council against any compensation or damages for or with respect to injuries or damage to persons or property to the extent that such injuries or damage result from any act, default or negligence on the part of the Council or the Council's employees or contractors (not being the Supplier or employed by the Supplier).
- 14.2 The Council shall indemnify and keep indemnified the Supplier against injury (including death) to any persons or loss of or damage to any property (including the Program if applicable) which may arise out of the act, default or negligence of the Council, its employees or agents in consequence of the Council's obligations under the Contract and against all claims, demands, proceedings, damages, costs, charges and expenses whatsoever in respect thereof or in relation thereto, provided that the Council shall not be liable for nor be required to indemnify the Supplier against any compensation or damages for or with respect to injuries or damage to persons or property to the extent that such injuries or damage result from any act, default or negligence on the part of the Supplier or the Supplier's employees or contractors.
- 14.3 Without limiting its responsibilities under clauses 14.1, the Supplier shall insure with a reputable insurance company against all loss of or damage to property and injury to persons (including death) arising out of or in consequence of his obligations under the Contract and against all actions, claims, demands, costs and expenses in respect thereof, save only as is set out in the exceptions in clause 14.4.
- 14.4 Save as expressly stated elsewhere in the Contract, neither party to this Contract shall be liable to the other for consequential loss or damage, including loss of use or of profit or of contracts.

15. PUBLICITY

- 15.1 The Supplier shall not, without the Council's prior written consent, publicise this Contract or the fact that it supplies (or supplied) to the Council the Program or the Services.

16. TERMINATION

- 16.1 The Council may terminate the Contract by giving six months' prior written notice to the Supplier.
- 16.2 The Contract may be terminated forthwith by either party on written notice if the other party is in breach of the terms of the Contract and such breach is incapable of remedy, or if a

breach is repeated during the Contract Period, or if a breach capable of being remedied is not remedied by the party in breach within 28 days of receipt of notice thereof in writing.

- 16.4 The Council may terminate the Contract forthwith on written notice if the Supplier becomes insolvent or bankrupt or makes an arrangement with its creditors or goes into liquidation other than a voluntary liquidation for the purpose of reconstruction or amalgamation.
- 16.5 Termination of the Contract shall not prejudice any rights of either party which have arisen on or before the date of the termination.
- 16.6 Within seven days following the date of the termination the Council shall at the option of the Supplier return or destroy all copies, forms and parts of the Program and Program documentation which are covered by this Contract and shall certify to the Supplier in writing that this has been done.
- 16.7 Within seven days following the date of the termination the Supplier shall at the option of the Council return or destroy all documents, records, data, or other information provided by the Council in connection with this Contract, and shall certify to the Council in writing that this has been done.
- 16.8 The Supplier reserves the right to terminate this Contract pursuant to clause 13.2.3.
- 16.9 The Council reserves the right to terminate this Contract pursuant to Schedule 5.

Refund of Fees paid in advance

- 16.10 In the event that, pursuant to this Contract, the Council has paid Fees in advance for the use of the Program and/or the Services for a specified period (a “**Specified Term**”) and termination of the Contract would bring the Contract to an end during such a Specified Term, the Supplier shall refund a proportion of such Fees paid by the Council equal to the proportion of the Specified Term remaining at the date of termination. For the avoidance of doubt, the Council’s entitlement to a refund under this clause shall not in any way limit the Council’s other rights or remedies (or the Supplier’s obligations) pursuant to this Contract or otherwise.

17. LONDON LIVING WAGE

- 17.1 The Supplier shall:
 - (a) ensure that none of its employees engaged in the provision of the Programs or the Services is paid an hourly wage (or equivalent of an hourly wage) less than the London Living Wage (unless otherwise directed by the Council).
 - (b) ensure that any increase in the London Living Wage notified to the Supplier by the Council takes effect within six months from the date of notification.
 - (c) provide to the Council such information concerning the payment of the London Living Wage to its employees or to the employees of its sub-contractors engaged in the provision of the Programs or the Services as the Council may reasonably require from time to time; and

- (d) co-operate and provide all reasonable assistance to the Council in monitoring the effect of the London Living Wage on the quality of service provided under this Contract.

17.2 In this Contract, “**London Living Wage**” means the basic hourly wage of £9.40 (before tax, other deductions and any increase for overtime) as may be updated from time to time by the Greater London Authority.

18. CONFIDENTIALITY

18.1 The Council shall keep confidential the Program and Program documentation or any part thereof and shall not disclose the same to any third party without the prior written consent of the Supplier.

18.2 The Supplier and the Council shall keep confidential all other information or records that are received from the other party under or in connection with this Contract where the records or information are:

- (a) designated as 'confidential';
- (b) personal, secret, prejudicial or sensitive in nature; or
- (c) otherwise unlikely to have been intended for wider distribution, having regard to the subject matter of the records or information and the circumstances under which they were received

and shall not divulge the same to any third party without the prior written consent of the other party.

18.3 Number not used

18.4 The provisions of this clause shall not apply to:-

18.4.1 Any information in the public domain otherwise than by breach of this Contract.

18.4.2 Information in the possession of the receiving party thereof before divulgence as aforesaid.

18.4.3 Information obtained from a third party who is free to divulge the same.

18.4.4 Any disclosure or publication that is expressly permitted by another provision of this Contract.

18.5 The Supplier and the Council shall divulge confidential information only to those employees who are directly involved in the performance of their respective obligations under this Contract, and shall each ensure that such employees are aware of and comply with these obligations as to confidentiality.

18.6 The obligations of both parties as to disclosure and confidentiality shall come into effect on the signing of the Contract and shall continue in force notwithstanding the termination of the Contract.

18.7 The Supplier expressly acknowledges and agrees to the further requirements set out in Schedule 5 (Data Protection).

19. FORCE MAJEURE

19.1 Neither party shall be liable for failure to perform its obligations under the Contract if such failure results in circumstances beyond the party's reasonable control. Such delay or failure will not constitute a breach of this Contract and the time for performance of the affected obligation will be extended by such period as is reasonable.

20. WAIVER

20.1 No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Contract shall either be or be deemed to be a waiver or in any way prejudice any right of that party under the Contract.

21. EQUALITY & NON-DISCRIMINATION

21.1 The Supplier shall ensure that it and its employees comply with all relevant legislation against discrimination, including without limitation the Equality Act 2010, as well as official guidance and codes of practice in relation to the same.

22. HEALTH AND SAFETY

22.1 The Supplier shall take all necessary steps to secure the health, safety and welfare of all persons associated with or affected by the Contract and shall at all times comply with all relevant health and safety legislation.

23. NOTICES

23.1 All notices which are required to be given under this Contract will be in writing and will be sent to the address of the recipient set out at the beginning of this Contract or such other address as the recipient may agree in writing. Any such notice may be delivered personally by first class pre-paid letter or facsimile transmission and will be deemed to have been received:

23.1.1 by hand delivery at the time of delivery;

23.1.2 by first class post 48 hours after the date of mailing;

23.1.3 by facsimile transmission immediately upon transmission provided a confirmatory copy is sent by first class pre-paid post or by hand by the end of the next business day.

24. SEVERABILITY

24.1 If any part of this Contract is found by a court of competent jurisdiction or other competent authority to be invalid, unlawful or unenforceable then such part shall be severed from the remainder of this Contract which shall continue to be valid and enforceable to the fullest extent permitted by law.

25. LAW

- 25.1 The Contract shall be subject to and construed and interpreted in accordance with English law and shall be subject to the exclusive jurisdiction of the Courts of England.

26. FREEDOM OF INFORMATION

- 26.1 The Supplier recognises that the Council has obligations under the Freedom of Information Act 2000 ("**FOI Act**") to disclose information to third parties (the "**Requester**") when requested, subject to certain exemptions and considerations. The Supplier further recognises that information requested from the Council may include information relating to the Supplier and/or the Contract.

- 26.2 In the event that a Requester seeks information that might lead to disclosure of information about the Supplier (including but not limited to its services and/or products) (a "**Request**"), the parties agree that the following procedure shall apply:

26.2.1 Upon receipt of the Request, the Council shall notify the Supplier that a Request has been made under the FOI Act, and provide the Supplier with copies of all information relating to the Supplier, its products or services, that it considers to be relevant to the Request;

26.2.2 Upon receipt of such notification, the Supplier shall use reasonable endeavours to provide a response to the Council within 5 working days from the date of notification. Where this is not reasonably practicable the Supplier shall promptly inform the Council that this is the case and provide a date by which a response will be made. The Supplier shall respond to the Council within the agreed timetable identifying:

26.2.2.1 Information that may be released; and

26.2.2.2 Information that the Supplier considers is subject to an exemption under the FOI Act and that should not be released together with reasons why the relevant exemption(s) should be applied.

26.2.2.3 The Council shall, in determining what must be disclosed pursuant to the Request and the FOI Act, take into account the representations made by the Supplier pursuant to sub-clauses 26.2.2.1 and 26.2.2.2 above.

- 26.3 Notwithstanding sub-clause 26.2.2.3 or any other provision of this Contract, the Supplier agrees that the Council shall have sole discretion to determine whether any information is to be disclosed pursuant to a Request and/or the FOI Act and further agrees that the Council shall not be liable to the Supplier for any loss or expense whatsoever resulting from the Council's lawful disclosure of such information pursuant to a Request and/or the FOI Act.

27. SECURITY STANDARDS

- 27.1 The Supplier shall comply with the Council's security standards as set out in Schedule 6.

IN WITNESS WHEREOF this Contract has been executed by each of the Parties in accordance with their respective constitutions on the day and year above written

Signed for and on behalf of
**THE MAYOR AND BURGESSES OF
THE LONDON BOROUGH OF ISLINGTON**

.....
Authorised Officer (1)

.....
Authorised Officer (2)

Signed for and on behalf of
QUALITY EDUCATION SOLUTIONS LIMITED

.....[Redacted	under	Section	40]
.....				
Director/Authorised Signatory	Print Name			

SCHEDULE 1
SPECIFICATION

SEE ATTACHED PDF DOCUMENT

SCHEDULE 2

THE SUPPLIER'S PROPOSAL

REDACTED under Section 43 - commercially sensitive

SCHEDULE 3

CHARGES AND PAYMENT SCHEDULE

Redacted under section 43 - commercially sensitive

SCHEDULE 4

MAINTENANCE AND SUPPORT

The following terms and conditions specifically apply to the provision by the Supplier of support and corrective services relating to the Program during the Contract Period.

1. Definitions

- “Call”** means a communication by telephone, email or web portal from the Council to the Supplier’s Service Desk that is for the purpose of reporting an Incident.
- “Change Request”** means a Council requested enhancement to the existing Program.
- “Incident”** means an event which is not part of the standard operation of the Program or system supplied by the Supplier and which causes, or may cause, interruption to or disruption in the performance of the Program.
- “Severity”** means the priority assigned to the Incident, determined using the criteria set out in the table in this Schedule.
- “Program Error”** means an error in the program code of the Program which causes the Program to be partially or totally inoperative or causes incorrect data to be displayed or stored.
- “Service Desk”** means the central point of contact within The Supplier for the Council’s users of the service.

2. Service Description

- 2.1 The Supplier will provide a telephone support service for the investigation of Council queries and issues with the Program. Subject to the exceptions stated in this Schedule, the Supplier will:
- (a) Provide a substantive response to each telephone support call made by the Council within the applicable *target response time* stated in the table overleaf; and
 - (b) Rectify Program Errors and other Incidents reported during each telephone support call within the applicable *target fix time* stated in the table overleaf.
- 2.2 If a Program Error is discovered in the current or immediately preceding release of the Program, the Supplier will at no additional charge investigate the error and attempt to find a solution. If the Program Error is found in an earlier version of the Program, or if it is found to be a result of modifications made to the Program by someone other than the Supplier’s staff or other program not supplied by the Supplier, then the Supplier shall not be obliged to rectify the Program Error.
- 2.3 If a fault in the Program is discovered to be a result of an issue with any third party program, the Supplier undertakes to report the problem to the third party program provider, and to notify the Council of any solutions that may be supplied to the Supplier in response to the report.
- 2.4 The Supplier will not be under any obligation to correct errors and defects in the Program where such errors and defects result from alteration, modification, update, or amendment

(other than alteration, modification, update, or amendment carried out by the Supplier or in accordance with the Supplier's instructions) or improper user of the Program.

- 2.5 Program Errors and other Incidents will be of varying Severity. The Severity determines the time limit within which each Incident must be rectified by the Supplier. The Severity of each Incident shall be determined using the criteria set out in the following table:

Severity	Criteria	Target Response Time	Target Fix Time
REDACTED under section 43 – commercially sensitive			

- 2.6 For the avoidance of doubt, the Supplier shall not be in breach of its obligations under this Schedule if the resolution of an Incident is prevented by the Council (or its employees or agents) or if the Parties agree that the Incident will be resolved at a later date.
- 2.7 It is the Supplier's responsibility to ensure that any Incident reported by the Council is referred and/or escalated to the appropriate person/group within the Supplier's organisation to resolve the Incident.

3. Council Obligations

- 3.1 The Council must ensure that a suitably qualified point of contact is available to assist with resolution of Incidents.
- 3.2 In order for the Supplier to be able to diagnose Program Errors, the Program Error needs to be reproducible. If the Supplier is unable to replicate the Program Error on its own machines, the Council shall take reasonable steps to demonstrate the error to the Supplier [and/or provide the Supplier such access to a Council workstation] as the Supplier may reasonably require in order to diagnose the Program Error.

4. Exclusions

- 4.1 In addition to any other exclusions stated herein, the Supplier shall not be obliged to correct any Incident that was caused by:
- (a) the Council's failure to maintain a suitable environment for the Program at the site in accordance with the manufacturer's or Supplier's written specifications including failure to maintain a constant power supply, air conditioning or humidity control;
 - (b) the Council's neglect or misuse of equipment and/or the Program including operating the equipment and/or Software outside design specification or failure to operate it in accordance with the manufacturer's or Supplier's instruction manuals;
 - (c) infection by viruses, or failure of the Council to maintain up to date anti-virus software.

SCHEDULE 5

DATA PROTECTION

1. Data Protection Act 1998

1.1. In order that the Council may comply with paragraphs 11 and 12 (relating to the seventh data protection principle) of Part II of Schedule 1 to the Data Protection Act 1998 The Supplier hereby undertakes as follows:

1.1.1. The Supplier will have in place at all times when processing personal data technical and organisational security measures sufficient to ensure that the Data Protection Act 1998 is complied with.

1.1.2. The Supplier shall so far as concerns personal data obtained under or for the purposes of this Contract:

- (i) comply with the Data Protection Act 1998 and all relevant codes of practice issued under the Act;
- (ii) maintain the confidentiality of personal data to which he has authorised access under the terms of this Contract; and
- (iii) in accordance with paragraph 12 of Part II of Schedule 1 to the Data Protection Act 1998 (a) process any personal data supplied to him by the Council only on instructions from the Council (but including any set out in this Agreement) and (b) comply with obligations equivalent to those imposed on a data controller by the seventh principle of Part I of the said Schedule.

2. Caldicott Principles

The Supplier must also observe the Caldicott Principles, which are set out below.

2.1. The purpose must be justified.

Every proposed use or transfer of personal data within or from the organisation should be clearly defined and scrutinised, with continuing uses regularly reviewed by an appropriate guardian.

2.2. Personal data must not be used unless it is absolutely necessary.

Personal data should not be used unless there is no alternative.

2.3. The minimum necessary personal data information is to be used.

Where use of personal data is considered essential, each individual item of information should be justified with the aim of reducing identifiability.

2.4. Access to personal data should be on a strict need to know basis.

Only those individuals who need access to personal data should have access to it, and they should only have access to the data that they need to see.

2.5. Everyone should be aware of their responsibilities.

Those handling personal data - both frontline and support staff - must be aware of their responsibilities and obligations to respect personal confidentiality

2.6. All persons handling personal data must understand and comply with the law.

Every use of personal data information must be lawful.

4. Termination due to breach of this Schedule

- 4.1 The Supplier shall permit the Council to take all reasonable steps to ensure that the provisions of this Schedule (and in particular that the measures referred to in paragraph 1.2) are being complied with.
- 4.2 Notwithstanding any other provision of this Contract, failure on the part of the Supplier to comply with the provisions of this Schedule shall entitle the Council to terminate the Contract with immediate effect and to recover the costs incurred in consequence as a civil debt from the Supplier.

5. Delivery of records and information on termination

- 5.1 On expiry or termination of this Contract howsoever arising the Supplier shall, if so requested by the Council:
 - (a) Transfer to the Council the whole or any part of the personal data and other information received or acquired by the Supplier for the purposes of or in the course of the delivery of the Contract; and
 - (b) Destroy or erase the whole or any part of such personal data and other information retained by the Supplier.
- 5.2 The provisions of this Schedule shall continue in effect notwithstanding termination of this Contract.

SCHEDULE 6

SECURITY STANDARDS

The Supplier shall comply with the Council's security standards as laid out in the ICT Security Policy suite.

<http://www.islington.gov.uk/about/council-documents/Pages/ICT-Policy.aspx>

In particular, the Supplier shall comply with the 'LBI IT Security Policy POL009' which is not yet published on the above web page but is annexed hereto.