

THIS CONTRACT is made the

day of

201

BETWEEN

(1) **PEAK DISTRICT NATIONAL PARK AUTHORITY** of Aldern House, Baslow Road, Bakewell,
Derbyshire DE45 1AE ("the Authority")

and

(2) of ("the Contractor")

BACKGROUND

(1) The Authority requires Services relating to [] as described in the Invitation to Tender

(2) The Contractor has been selected to provide these Services.

AGREED TERMS:

1. Definitions

The following terms shall have the following meanings:

'Authority Data'

- (a) the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:
 - (i) supplied to the Contractor by or on behalf of the Authority; and/or
 - (ii) which the Contractor is required to generate, process, store or transmit pursuant to this Contract; or
- (b) any materials, documentation, information, programs and codes supplied by the Authority to the Contractor, the intellectual property rights in which:
 - (i) are owned or used by or on behalf of the Authority; and
 - (ii) are or may be used in connection with the provision or receipt of the Services; and
- (c) any Personal Data for which the Authority is the Data Controller;

'Commencement Date' means

'Completion Date' means

'Contract' means this contract together with the Contract Documents

'Contract Documents' means the Invitation to Tender and the Proposal

'Contract Manager': (or any other officer of the Authority appointed to replace him/her)

'Contract Period': the period from the Commencement Date to the Completion Date

'Controller': as defined in the Data Protection Legislation

'Data Protection Legislation' means all applicable data protection and privacy legislation in force from time to time in the UK including the General Data Protection Regulation

((EU) 2016/679), the Data Protection Act 2018, the Privacy and Electronic Communications Directive 2002/58/EC (as updated by Directive 2009/136/EC) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended.

'Data Subject': as defined in the Data Protection Legislation

'Invitation to Tender' means the invitation to tender dated [] together with any appendices and any clarifications, and attached at Annex 1

'Personal Data': as defined in the Data Protection Legislation.

'Processor': as defined in the Data Protection Legislation

'Proposal' means the Contractor's tender submission dated [], attached at Annex 2

'Services' means the services detailed in the Invitation to Tender.

1. Appointment

- 1.1 The Authority appoints the Contractor to carry out the Services in accordance with this Contract in return for the payments specified in Clause [3].
- 1.2 The Contract shall run for the Contract Period, unless extended in accordance with Clause [12] or terminated in accordance with Clause [11] or otherwise in accordance with this Contract.

2. Performance of Contract

The Contractor agrees that at all times it will carry out the Services and perform the Contract in compliance with the following conditions:

- 2.1 The Contractor shall provide the Services to the Authority's satisfaction in accordance with the Contract Documents which shall be deemed to form and be read and construed as part of this Contract.
- 2.2 The Contractor shall perform its obligations and functions in compliance with this Contract (and any authorised modifications) and carry out the Services in a manner consistent with the Contract Documents and to the entire satisfaction of the Authority and in any event with all the reasonable skill care and diligence that would be expected of a qualified competent and experienced person undertaking the Services, providing the Services honestly, fairly and professionally in accordance with the best interests of the Authority with the least possible disruption to the Authority's operation and managing conflicts of interest fairly, both between itself and its clients and between clients.
- 2.3 The Contractor shall deploy suitable and sufficient resources to the performance of the Services in a manner consistent with the Contract Documents.
- 2.4 The Contractor shall notify the Authority as soon as practicable and in any event within 24 hours if the Contractor is unable to carry out any part of the Services or perform any of its obligations under the Contract.
- 2.5 The Contractor shall be responsible for any loss or damage caused by the Contractor's negligence or lack of care.
- 2.6 Any damage or loss which may occur during the Contract in relation any services or to any materials implements or property whatsoever of the Authority which may at any time for the purpose of the Services be in the custody or use of the Contractor or sub-Contractor which shall arise from theft, spoiling, decay, waste,

wind, rain or fire shall immediately be made good by the Contractor at the Contractor's cost to the satisfaction of the Authority.

- 2.7 The Contractor shall not affix or erect any signs, notices or advertisements without the prior written approval of the Authority nor use the name or logo of the Authority except in accordance with a written consent issued by the Contract Manager
- 2.8 The Contractor shall not delete or remove any proprietary notices contained within or relating to the Authority Data

3. The Authority's Obligations

- 3.1 In consideration of the Contractor providing the Services the Authority will pay the Contractor the sum of £[]. Payment will be made by means of monthly invoices in arrears unless agreed differently. Payment of submitted invoices will normally be made within 30 days of receipt.
- 3.2 The Authority will, in addition to the foregoing sum, pay to the Contractor Value Added Tax, where appropriate, upon receipt of a valid VAT invoice.

4 Health and Safety

- 4.1 The Contractor shall comply with the Health and Safety at Work etc Act 1974 and all other regulations made under the Act and all other legislation and regulations relevant to the performance of the Contract, and shall have regard to the Authority's health and safety policy and safe working practices when preparing its own statement.
- 4.2 If applicable the Contractor will provide method statements to be approved by the Authority. Failure to adhere to the agreed method statements may result in termination of the Contract.
- 4.3 The Contractor will immediately on discovery inform the Authority of any health and safety issues outside the direct role of providing the Services but which have an impact on that role.

5 Employees

- 5.1 The Contractor shall not engage, employ or cause to be employed in the supervision and performance of the Contract any person without the necessary qualifications, skill and experience to perform the duties that they are trained and employed to do.
- 5.2 At the request of the Contract Manager the Contractor shall remove or procure the removal within a reasonable period (or immediately if required) any person employed by the Contractor or sub-contractor in or about the performance of the Contract or any part for any reason (provided the Authority shall not act vexatiously). The Authority shall within 3 working days provide to the Contractor written reasons for such request. Such persons shall not be again employed in the performance of Contract without the permission of the Contract Manager.
- 5.3 The Authority shall not in any circumstances be liable to the Contractor or any of its employees in relation to such action or removal and the Contractor shall fully and promptly indemnify the Authority in respect of any claims brought against it by any such employee.

- 5.4 The Contract Manager shall have the right at any time to interview any member of the Contractor's staff in connection with the performance of the Contract. The Contract Manager shall also be entitled to request any information relating to the performance of the Contract. Any information so requested shall be supplied by the Contractor forthwith.
- 5.5 The Contractor shall at all times be fully responsible for the payment of all income or other taxes, national insurance contributions or levies of any kind, relating to or arising out of the employment of any persons employed by the Contractor and shall fully indemnify and keep indemnified the Authority in respect of any liability of the Authority in respect thereof.

6 Liability of the Contractor

The Contractor hereby indemnifies and shall keep indemnified the Authority from and against any liability to any person whatsoever arising directly or indirectly out of or connected with the performance, non-performance or breach of the Contract or any act neglect default or omission of any employee, agent, servant invitee or visitor of the Contractor or any sub-Contractor including, without limitation:

- 6.1 any and all losses, costs, expenses, (including professional and legal fees) liabilities and damages;
- 6.2 any and all proceedings, claims (including any claim for infringement of copyright), demands, penalties, statutory charges and fines;
- 6.3 death, illness or injury to any third party or for any loss of or damage to any property belonging to the Authority or to any third party and against all losses, costs, expenses, liabilities, damages, claims, demands or causes of action resulting therefrom;
- 6.4 any claim for professional liability in respect of any advice given under the terms of the Contract

in each case to the extent arising out the Contractor's or any of its sub-Contractors' breach or failure in performance of the Contractor's obligations in the Contract whether arising from breach of contract, negligence or default or otherwise, except and to the extent that such losses, costs, expenses, liabilities, damages, claims, demands were wholly and directly caused by the negligence or wilful misconduct of the Authority or its officers, agents or employees.

7 Insurance

- 7.1 The Contractor will at all times from and including the commencement of the Services maintain in force at its own cost with reputable insurers or underwriters an adequate policy of insurance to cover the liability of the Contractor in respect of:
- 7.1.1 public and employers liability in the sum of at least £5,000,000 per individual claim, and
 - 7.1.2 professional negligence of at least £5,000,000 per individual claim
- and will provide satisfactory evidence of insurance against such claims to the Authority, including copies of all insurance policies, cover notes and premium receipts.
- 7.2 In the event that the Contractor is in breach of this clause, the Authority shall be at liberty to obtain such insurance as is required at the cost of the Contractor (payable on demand).

8 Performance Monitoring

8.1 The Authority may monitor the performance of the Services by the Contractor.

8.2 The Contractor shall co-operate, and shall procure that its Sub-Contractors co-operate, with the Authority in carrying out the monitoring referred to in Clause 8.1 at no additional charge to the Authority.

8.3 The outcome of performance monitoring will be discussed by the Authority and the Contractor at meetings to be held either monthly or every two months by agreement.

8 Equipment

The Contractor shall at all times at its own cost and responsibility provide in good and serviceable repair, such equipment, vehicles and materials as is necessary for the proper performance of the Contract and execution of the Services and shall at all times be fully responsible for licensing fees, taxes and insurances required in connection with such equipment.

9 Statutory Requirements

The Contractor shall at all times observe and comply with all the relevant Acts of Parliament, regulations and codes of practice relating to the performance of the Services including (but not limited to) compliance with any obligations that may be imposed upon the Authority resulting from the Services (where the same are in the power and control of the Contractor) and the Contractor shall indemnify the Authority accordingly.

10 Data processing

10.1 Both parties will comply with all applicable requirements of the Data Protection Legislation. This Clause [10] is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation. In this Clause [10], Applicable Laws means (for so long as and to the extent that they apply to the Contractor) the law of the European Union, the law of any member state of the European Union and/or Domestic UK law; and Domestic UK Law means the Data Protection Legislation and any other law that applies in the UK.

10.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Contractor is the Processor. Schedule [] sets out the scope, nature and purpose of processing by the Contractor, the duration of the processing and the types of Personal Data and categories of Data Subject.

10.3 Without prejudice to the generality of Clause [10.1], the Authority will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Contractor for the duration and purposes of this agreement.

10.4 Without prejudice to the generality of Clause [10.1], the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this agreement:

- (a) process that Personal Data only on the documented written instructions of the Authority which are set out in Schedule [], unless the Contractor is required by Applicable Laws to otherwise process that Personal Data. Where the Contractor is relying on laws of a member of the European Union or European Union law as the basis for processing Personal Data, the Contractor shall promptly notify the Authority of this before performing the processing required

- by the Applicable Laws unless those Applicable Laws prohibit the Contractor from so notifying the Authority;
- (b) ensure that it has in place appropriate technical and organisational measures (as defined in the Data Protection Legislation), reviewed and approved by the Authority, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
 - (c) not transfer any Personal Data outside of the European Economic Area unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
 - (i) the Authority or the Contractor has provided appropriate safeguards in relation to the transfer;
 - (ii) the Data Subject has enforceable rights and effective remedies;
 - (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Contractor complies with the reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
 - (d) notify the Authority immediately if it receives:
 - (i) a request from a Data Subject to have access to that person's Personal Data;
 - (ii) a request to rectify, block or erase any Personal Data;
 - (iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);
 - (e) assist the Authority in responding to any request from a Data Subject and in ensuring compliance with the Authority's obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (f) notify the Authority without undue delay on becoming aware of a Personal Data breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this agreement;
 - (g) at the written direction of the Authority, delete or return Personal Data and copies thereof to the Authority on termination or expiry of the agreement unless required by the Applicable Laws to store the Personal Data;
 - (h) maintain complete and accurate records and information to demonstrate its compliance with this Clause [10] and allow for audits by the Authority or the Authority's designated auditor and immediately inform the Authority if, in the opinion of the Contractor, an instruction infringes the Data Protection Legislation.

10.5 The Contractor shall indemnify the Authority against any losses, damages, cost or expenses incurred by the Authority arising from, or in connection with, any breach of the Contractor's obligations under this Clause [10].

10.6 Where the Contractor intends to engage a Sub-Contractor and intends for that Sub-Contractor to process any Personal Data relating to this agreement, it shall:

- (a) notify the Authority in writing of the intended processing by the Sub-Contractor;
- (b) obtain prior written consent from the Authority to the processing;
- (c) enter into a written agreement incorporating terms which are substantially similar to those set out in this clause Clause [10].

10.7 The Authority may, at any time on not less than 30 Working Days' written notice to the other party, revise this Clause [10] by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

10.8 The provisions of this clause shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

11 Termination

11.1 The Authority shall be entitled immediately upon the happening of any of the following events to terminate this Contract by the service of a notice (a "Termination Notice"), such events being;

- 11.1.1 The failure to perform the obligations under Clause 2 of this Contract;
- 11.1.2 Any breach by the Contractor of any other provision of the Contract;
- 11.1.3 The Contractor having failed to perform a material part of the Contract for a period of 5 consecutive days; or
- 11.1.4 The Contractor being treated as insolvent.

11.2 A Termination Notice shall be in writing and may be given by the Authority.

11.3 Upon receipt of a Termination Notice, in addition to such consequences as are set out in other provisions of the Contract:

- 11.3.1 The Contractor shall immediately cease to perform of the Services;
- 11.3.2 The Contractor shall fully and promptly indemnify the Authority in respect of:
 - i) all losses damages and costs (including professional costs) and expenses incurred or suffered by the Authority from such termination; and
 - ii) the additional cost (if any) incurred by the Authority of causing to be performed such part of the Contract as would have been performed by the Contractor during the remainder of the Contract Period. The Authority shall be at liberty to procure such performance by any persons (whether or not employees of the Authority) as the Authority shall in its entire discretion think fit and shall be under no obligation to employ the least expensive method of having such Services performed.
- 11.3.3 The Authority shall be under no obligation to make any further payments to the Contractor and shall be entitled to retain any payments which may have fallen due to the Contractor before termination until the Contractor has paid to the Authority all sums due under this Contract.
- 11.3.4 All rights and obligations of the parties shall automatically terminate except for such rights of action as have accrued prior to such termination and any rights or obligations which expressly or by implication are intended to come into or continue in force on or after such termination, in particular but without prejudice to the generality of the foregoing, those relating to copyright, design and other intellectual property rights.

12 Extension of Contract

This Contract may be extended for up to [months/years] **[by agreement between the parties/at the Authority's absolute discretion]**. If the Authority requires an extension to the Contract Period, it shall serve no less than three months' notice in writing before the expiry of the Contract Period of its wish to extend. **[Within one month of receipt of such notification, the Contractor shall notify the Authority in writing as to whether it agrees to the extension.]** If an extension is **[required/agreed]**, the Contract shall be extended on the same terms as this Contract.

13 Assignment

The Contractor shall not assign the Contract or any part or it or any benefit or interest within it (including subcontracting) without the written consent of the Authority. Such consent does not relieve the Contractor from liability or obligation under the Contract and it shall be responsible for the acts defaults omissions and neglects of any sub-Contractor, its agents, servants or workmen as fully as if they were acts defects or neglects of the Contractor and the Contractor shall indemnify and keep indemnified the Authority from and against any costs claims demands and liabilities howsoever arising out of or in respect of any breach by any sub-Contractor its agents servants or workmen.

14 Bribery and Corruption

14.1 The Contractor warrants and undertakes to the Authority that:

- 14.1.1 it will comply with applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Anti-Bribery Law");
- 14.1.2 it has not and shall not give any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972;
- 14.1.3 it will comply with the Authority's anti-bribery policy as may be amended from time to time, a copy of which will be provided to Contractor on written request;
- 14.1.4 it will procure that any person who performs or has performed services for or on its behalf ("Associated Person") in connection with this Contract complies with this Clause [14];
- 14.1.5 it will not enter into any agreement with any Associated Person in connection with this Contract, unless such agreement contains undertakings on the same terms as contained in this Clause [14];
- 14.1.6 it has and will maintain in place effective accounting procedures and internal controls necessary to record all expenditure in connection with the Contract;
- 14.1.7 from time to time, at the reasonable request of the Authority, it will confirm in writing that it has complied with its undertakings under this Clause [14] and will provide any information reasonably requested by the Authority in support of such compliance;
- 14.1.8 it shall notify the Authority as soon as practicable of any breach of any of the undertakings contained within this clause of which it becomes aware.

14.2 Breach of any undertakings in this clause shall be deemed to be a material breach of the Contract for the purposes of Clause [11].

15 Force majeure

Neither party will be liable for any delay in performing or failure to perform its obligations (other than a payment obligation) under this contract due to any cause

outside its 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.

16 Notices

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 on the front page of this contract or such other address as the recipient may designate by notice given in accordance with this clause. Any such notice may be delivered personally or by first class pre-paid letter and will be deemed to have been received:

- a. by hand delivery – at the time of delivery
- b. by first class post – 48 hours after date of mailing

17 Severance

If any provision of this Contract is found by any judicial or other competent authority to be void, voidable, invalid, unlawful or unenforceable then such provision shall be amended by the parties in such reasonable manner as achieves the intention of the parties without illegality, and no other provision of this contract shall be rendered invalid, unenforceable or be otherwise affected

18 Warranty

The Contractor and the Authority warrant their power to enter into this Contract and have obtained all necessary approvals to do so.

19 Equality

19.1 As a local authority the Authority is subject to the Public Sector Equality Duty which requires it, in its work and decision making, to have due regard to the need to:

- 19.1.1 Eliminate unlawful discrimination, harassment and victimisation and other conduct prohibited by the Equality Act 2010;
- 19.1.2 Advance equality of opportunity between people who share a protected characteristic and those who do not;
- 19.1.3 Foster good relations between people who share a protected characteristic and those who do not.

19.2 The Authority's statutory responsibility is outlined in its Equality Policy (available on the Authority's website). Contractors are expected to work to the Authority's high standards of equality and inclusivity.

20 Freedom of Information and Transparency

20.1 The Contractor **acknowledges** that the Authority is subject to the requirements of the Freedom of Information Act 2000 ("FOIA"), the Environmental Information Regulations 2004 ("EIR") and the Local Government Transparency Code 2014 ("the Transparency Code"). The Contractor shall assist and co-operate with the Authority as necessary to comply with these requirements and acknowledge that the Authority may be required to disclose information pursuant to the FOIA, the EIR or the Transparency Code. The Contractor shall provide all necessary assistance reasonably requested to enable the Authority to respond to a request for information within the time for compliance and permit the Authority to inspect such records as requested from time to time.

20.2 The Contractor acknowledges that all payments over £250 are published in the public domain in accordance with guidelines issued by the Department of Communities and Local Government.

21 Rights and Duties Reserved

For the avoidance of doubt nothing herein contained or implied shall prejudice or affect the Authority's rights or powers duties and obligations in the exercise of its functions as a local authority for the enforcement of or pursuance of any enactment by-law or regulation for the time being in force.

22 Waiver

The failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this Contract shall not be a waiver of them or of the right subsequently to enforce all terms and conditions of this Contract.

23 Entire agreement

This Contract constitutes the entire agreement between the Parties in respect of its subject matter and supersedes and extinguishes all prior negotiations, arrangements, understanding, course of dealings or agreements made between the Parties in relation to its subject matter, whether written or oral. Neither Party has been given, nor entered into this Contract in reliance on, any warranty, statement, promise or representation other than those expressly set out in this Contract.

24 Variation of Contract

No variation of Contract shall be valid or have any effect unless it is agreed in writing and signed by the Authority. No other variations to the Contract shall be accepted or paid by the Authority.

25 Arbitration/Dispute Resolution

All disputes or differences which shall at any time arise between the parties whether during the term or afterwards concerning this Contract or its construction or effect or the rights, duties or liabilities of the parties under it, or any other matter in any way connected with this Contract shall be referred to a single arbitrator to be agreed upon by the parties or in default of an agreement to be nominated by the President for the time being of the Chartered Institute of Arbitrators in accordance with the Arbitration Act 1950 or any statutory modification or re-enactment of it for the time being in force.

26 Third Party Rights

A person who is not a party to this contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

27 Law and Jurisdiction

This Contract and any issues, disputes or claims (whether contractual or non-contractual) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the laws of England and Wales.

As Witness the hands of the parties or their duly authorised agents the day and year referred to above

..... Signed by an authorised signatory on behalf of
Peak District National Park Authority

.....Signed by an authorised signatory on behalf of
[]

Annex 1

Invitation to Tender with Appendices

Annex 2

Proposal

Schedule 1 Processing, Personal Data and Data Subjects

Description	Details
Subject matter of the processing	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates]</i>
Nature and purposes of the processing	<i>[Please be as specific as possible, but make sure that you cover all intended purposes.</i> <i>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</i> <i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc]</i>
Type of Personal Data	<i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i>
Categories of Data Subject	<i>[Examples include: Staff (including volunteers, agents, and temporary workers), customers/</i>

	<i>clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]</i>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>[Describe how long the data will be retained for, how it be returned or destroyed]</i>

Peak District National Park Authority

-and-

[]

CONTRACT

for the supply of services

Andrea G McCaskie
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