

1. DEFINITIONS

In this Agreement the following expressions have the meanings set opposite unless the context requires otherwise:

'Agreement'	this Contract
'Customer'	the user of the Services
'Data Protection Legislation'	(i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 [subject to Royal Assent] to the extent that it relates to processing of personal data and privacy; (iii) all applicable Law about the processing of personal data and privacy
'Data Protection Impact Assessment'	an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data
'Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer'	take the meaning given in the GDPR
Data Loss Event	any event that results, or may result, in unauthorised access to Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach
Data Subject Access Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data
DPA 2018	Data Protection Act 2018
GDPR	the General Data Protection Regulation (Regulation (EU) 2016/679)
'Law'	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply
'LED'	Law Enforcement Directive (Directive (EU) 2016/680)

‘Party’	a Party to this Agreement
‘Products’	those products provided by the Supplier to the Customer in support of the Services being provided
‘Protective Measures’	appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of 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 such measures adopted by it
‘Services’	the services provided by the Supplier to the Customer as selected by the Customer from the list below
‘Software’	any software owned by or licensed to the Supplier and supplied or made available to the Customer for the provision of the Services
‘Specification’	any Supplier quotation or proposal provided to the Customer
‘Supplier’	Idox Software Limited
‘Sub-processor’	any third Party appointed to process Personal Data on behalf of the Supplier related to this Agreement
‘Supplier Personnel’	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-Contractor engaged in the performance of its obligations under this Agreement

2. SERVICES

The Supplier shall provide services from the following list

- a Postal Vote Management Service (PVMS),
- Web print services to populate the content of the Products (ballot book data, candidate data, poll card data and elector data)
- e-counting services
- independent scrutineer services
- the supply of the Products

all as detailed in the Specification at the price quoted in the Specification.

The Products to be provided under the Agreement to assist in the provision of the Services are poll cards, ballot books, postal packs, postal vote refresh, personal identifier matching system (PIMS), canvas forms, Canvas internet / telephone or such other products as are specified in the Specification.

I. Poll Cards

Poll card prices include the setting of artwork for both the station poll card and postal poll card. If more than two types of poll card are required an additional charge will be made for each additional type as set out in table 2-2 below.

Poll cards will be mailed in Work sort order.

II. Ballot Books

All ballot paper numbering will be taken from the data provided by the Customer

Ballot books are sold in books of 100 pages only. Tendered ballot books are sold in books of twenty pages only. Ballot book colours can only be selected from those colours offered by the Supplier as shall be notified to the Customer prior to an Agreed Order being placed.

III. Postal Packs

All ballot paper numbering will be taken from the data provided by the Customer.

Due to their design, all postal packs require the use of Freepost license numbers from Royal Mail and not Business reply licence numbers. Freepost licence numbers shall be provided to the Supplier by the Customer at least nine weeks prior to the date of the relevant election.

The Supplier hereby advises the Customer that when placing an Agreed Order, provision should be made (in respect of postal packs) for at least 10% of the postal packs ordered to be blank packs. These will be automatically generated at the processing of data.

Save for variable data such as names and addresses, the wording in the postal pack is standard and fixed. In entering into this Agreement the Customer confirms that it has accepted the wording on the Supplier's postal pack and acknowledges that (save for variable data) this wording is standard and fixed.

3. USE OF THE SERVICES

- 3.1 The Services are owned and operated by the Supplier and are provided to the Customer for use by the Customer.
- 3.2 The Supplier on behalf of itself and any third party licensor(s) of the Software retains all rights and title to the Software and the Service and, except as set out below, no Intellectual Property Rights or goodwill therein are transferred to the Customer. s
- 3.3 In relation to the Services and the Software:
 - 3.3.1 the Customer is granted a non-exclusive, non-transferable right to use the Services and the Software;
 - 3.3.2 the Customer agrees to comply with all governmental or other regulations relating to the use of the Services or Software.
- 3.4 The Customer and its Business Partners must not remove or alter copyright and other proprietary notices contained in the Services or Software.

4. CONFIDENTIALITY

- 4.1 Each party agrees that it will not without the prior written agreement of the other party permit the duplication, use or disclosure of any Confidential Information to any third party unless at the time of disclosure such information is within the public domain.
- 4.2 "Confidential Information" shall mean (without limitation) any information whether oral, written or on electronic or optical media relating to this Agreement (although not its existence), the business and affairs of the parties and their respective clients, the Software and other materials delivered by the Supplier to the Customer pursuant hereto and technical and commercial data, customer account details, marketing and business plans, client lists, prices and pricing information, commercial agreements between the parties and between either party and a third party, information on communications, hardware and programming interfaces, protocols and integration, data, drawings, diagrams, software programs, trade secrets, know-how, algorithms, software architectures, designs and documentation (including in particular screen designs), all proprietary information and other intellectual property or rights thereto belonging to either party or held by either party under a duty of care to a third party to treat such information as confidential and any other information specifically identified by either party as confidential.
- 4.3 Notwithstanding the foregoing, the receiving party shall be entitled to make any disclosure required by law or other regulatory authority.

5. LIMITATION OF LIABILITY

- 5.1 Each party will indemnify the other against any claim for or in respect of death or personal injury of any person if and to the extent that it is caused by the negligence of such party or any employee of such party.
- 5.2 The Supplier will be liable for damage to the Customer's premises proven to have been caused by its negligence up to a maximum of £1,000,000 (one million pounds).
- 5.3 Subject always to Clauses 5.1 and 5.2, in the event that the Supplier fails to comply with its obligations of whatever nature arising under an Agreement, its liability for loss or damage in relation to loss or damage caused by the Services (whether in contract, tort (including negligence), restitution or otherwise) shall not exceed in the aggregate 100% of the value of the annual Service fee.
- 5.4 The Supplier shall not be liable to the Customer for any representation (unless fraudulent), implied warranty, condition or other term, any duty at common law, or any express terms of an Agreement, for any special, indirect or consequential loss including but not limited to loss of business, loss of contracts, loss of anticipated savings or revenue, or goodwill, or loss of or damage to or corruption of data or software.
- 5.5 The parties agree that it is reasonable that the Supplier shall have no liability to the Customer for any loss, damage, costs, expenses or other claims for compensation arising from any instructions given to the Supplier by the Customer which are incomplete, incorrect, inaccurate, illegible, or arising from their late arrival or non-arrival, or any other fault of the Customer. The parties also agree that it is fair and reasonable for risk to be allocated and in the context of the price being charged to the Customer and the nature of the losses which the Customer might suffer, that the Supplier's liability be limited in the manner set out in this Clause 8.
- 5.6 Each party acknowledges that any breach of its obligations with respect to the proprietary rights of the other party or such party's licensors may cause such other party irreparable injury for which there may be inadequate remedies at law and that such other party and its licensors will be entitled to equitable relief, in addition to all other remedies available to it.

6. DATA PROTECTION

- 6.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is listed in Schedule 1 and may not be determined by the Contractor.
- 6.2 The Contractor shall notify the Customer immediately if it considers that any of the Customer's instructions infringe the Data Protection Legislation.
- 6.3 The Contractor shall provide all reasonable assistance to the Customer in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Customer, include:
 - (a) a systematic description of the envisaged processing operations and the purpose of the processing;
 - (b) an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - (c) an assessment of the risks to the rights and freedoms of Data Subjects; and
 - (d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 6.4 The Contractor shall, in relation to any Personal Data processed in connection with its obligations under this Agreement:

(a) process that Personal Data only in accordance with Schedule 1, unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Customer before processing the Personal Data unless prohibited by Law;

(b) ensure that it has in place Protective Measures, which have been reviewed and approved by the Customer 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;

(c) ensure that:

(i) the Contractor Personnel do not process Personal Data except in accordance with this Agreement and the Customer's written instructions;

(ii) it takes all reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data and ensure that they:

- (A) are aware of and comply with the Contractor's duties under this clause;
- (B) are subject to appropriate confidentiality undertakings with the Contractor 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 Customer or as otherwise permitted by this Agreement; and
- (D) have undergone adequate training in the use, care, protection and handling of Personal Data; and

(d) not transfer Personal Data outside of the EU unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:

(i) the Customer or the Contractor has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Customer;

(ii) the Data Subject has enforceable rights and effective legal 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 (or, if it is not so bound, uses its best endeavours to assist the Customer in meeting its obligations); and

(iv) the Contractor complies with any reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;

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

6.5 Subject to clause 1.6, the Contractor shall notify the Customer immediately if it:

(a) receives a Data Subject Access Request (or purported Data Subject Access Request);

(b) receives a request to rectify, block or erase any Personal Data;

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

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

(e) 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

(f) becomes aware of a Data Loss Event.

6.6 The Contractor's obligation to notify under clause 6.5 shall include the provision of further information to the Customer in phases, as details become available.

6.7 Taking into account the nature of the processing, the Contractor shall provide the Customer with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 6.5 (and insofar as possible within the timescales reasonably required by the Customer) including by promptly providing:

(a) the Customer with full details and copies of the complaint, communication or request;

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

(c) the Customer, at its request, with any Personal Data it holds in relation to a Data Subject;

(d) assistance as requested by the Customer following any Data Loss Event;

(e) assistance as requested by the Customer with respect to any request from the Information Commissioner's Office, or any consultation by the Customer with the Information Commissioner's Office.

6.8 The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause.

6.9 The Contractor shall allow for audits of its Data Processing activity by the Customer or the Customer's designated auditor.

6.10 The Contractor shall designate a data protection officer if required by the Data Protection Legislation.

6.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:

(a) notify the Customer in writing of the intended Sub-processor and processing;

(b) obtain the written consent of the Customer;

(c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 1 such that they apply to the Sub-processor; and

(d) provide the Customer with such information regarding the Sub-processor as the Customer may reasonably require.

6.12 The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.

6.13 The Customer may, at any time on not less than 30 Working Days' notice, revise this clause 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 incorporated by attachment to this Agreement).

- 6.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Customer may on not less than 30 Working Days' notice to the Contractor amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

7. INTELLECTUAL PROPERTY RIGHTS

- 7.1 The Customer acknowledges and accepts that any and all intellectual property rights which subsist in or arise in connection with the Products and Services belong to the Supplier and/or its third party licensors.

8. APPLICABLE LAW

- 8.1 Unless otherwise agreed in writing between the parties, this Agreement and any Agreements hereunder shall be subject to and construed and interpreted in accordance with the laws of England and Wales and shall be subject to the non-exclusive jurisdiction of the courts of England and Wales.

Schedule 1: Processing, Personal Data and Data Subjects

1. The Contractor shall comply with any further written instructions with respect to processing by the Controller.
2. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	
Duration of the processing	
Nature and purposes of the processing	
Type of Personal Data	
Categories of Data Subject	
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	