



Transforming the way you work

Agreement between
the London Borough of Barnet

and

Civica UK Limited

for the Provision of a Software as a Service Solution
built upon the iCasework Platform

The Agreement

This Agreement is made the _____ day of _____ 2021
(the "Commencement Date") between:

Civica UK Limited, a company incorporated in England and Wales with company number 01628868, whose registered office is at Southbank Central, 30 Stamford Street, London, England, SE1 9LQ ("the **Provider**")

and

The London Borough of Barnet, whose registered office is at 2 Bristol Avenue, Colindale, London NW9 4EW ("the **Customer**").

It is agreed:

Terms and conditions of use

1. Definitions and Interpretation

- 1.1. In this Agreement the following expressions shall apply (save where the context otherwise requires):
- 1.1.1. **"Commencement Date"** means the date set out above, following which the Services shall begin to be delivered.
- 1.1.2. **"Confidential Information"** means information which is labelled and/or identified as confidential or proprietary by either party or which is reasonably considered confidential or proprietary by its nature.
- 1.1.3. **"Customer"** has the meaning given above.
- 1.1.4. **"Customer Data"** means all data processed by the Provider or provided to the Provider for processing or otherwise processed as part of the Services including, but not limited to data generated by the website from visitor or user input.
- 1.1.5. **"Customer Equipment"** means the hardware and software which the Customer is required to have in use in order to use and enable the Services to be provided in accordance with this Agreement.
- 1.1.6. **"Customer Personal Data"** means data forming part of the Customer Data which relates to and can be used either alone or in conjunction with other information to identify living individuals.
- 1.1.7. **"Data Controller"** has the meaning of 'controller' set out in the DPA or GDPR as applicable.
- 1.1.8. **"Data Processor"** has the meaning of 'processor' set out in the DPA or GDPR as applicable.
- 1.1.9. **"Data Protection Legislation"** has the meaning of 'data protection legislation' given in the DPA.
- 1.1.10. **"Data Subject"** means an individual who is the subject of Personal Data.
- 1.1.11. **"DPA"** means the Data Protection Act 2018.
- 1.1.12. **"Environmental Information Regulations"** mean the Environmental Information Regulations 2004 (SI2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
- 1.1.13. **FOIA:** means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
- 1.1.14. **"GDPR"** means Regulation (EU) 2016/679.
- 1.1.15. **"Guidelines"** means any guidelines provided to the Customer as set out in a Proposal or, if no Proposal was provided, as set out on the www.icasework.com website in relation to the use of the Services.
- 1.1.16. **"Initial Period"** means the period commencing on the Ongoing Services Start Date and terminating on 31 March 2023.

- 1.1.17. **"Intellectual Property Rights"** means all copyrights, patents, database rights, registered and unregistered design rights, trademarks and service marks and applications for any of the foregoing, together with all trade secrets, know-how, rights to confidence and other intellectual and industrial property rights in all parts of the world and for the full term thereof including all rights to renew the same.
- 1.1.18. **"Ongoing Services Fee"** means the fee as set out in Schedule C to this Agreement which covers the provision of the Ongoing Services for the Initial Period and each Service Period thereafter and is payable yearly in advance.
- 1.1.19. **"Ongoing Services"** means the hosting and ongoing management of the Software as set out in more detail in the Proposal.
- 1.1.20. **"Ongoing Services Start Date"** means the date sixty (60) days after the Commencement Date.
- 1.1.21. **"Outage"** means a period when there is total loss of the Services.
- 1.1.22. **"Personal Data"** has the meaning set out in the DPA or GDPR as (applicable).
- 1.1.23. **"Processing and process"** have the meaning set out in the DPA or GDPR as applicable.
- 1.1.24. **"Project Plan"** means the project plan, which shall be agreed between the parties within four (4) weeks of the Commencement Date, and shall indicate the target date for the achievement of key tasks.
- 1.1.25. **"Proposal"** means the written proposal for the provision of services provided by the Provider to the Customer, as referenced in **Schedule D** to this Agreement, or in the case of a G-Cloud engagement in **Schedule 1** of the applicable G-Cloud Call-Off Contract.
- 1.1.26. **"Service Interruption"** means a period during which there is partial loss of the Services.
- 1.1.27. **"Service Level Agreement"** means the definition of the service levels set out in **Schedule A** to this Agreement or in the case of a G-Cloud engagement in **Schedule 1** of the applicable G-Cloud Call-Off Contract.
- 1.1.28. **"Service Levels"** means the levels of performance to which the Services are to be provided to the Customer by the Provider as set out as set out in **Schedule A** to this Agreement or in the case of a G-Cloud engagement in **Schedule 1** of the applicable G-Cloud Call-Off Contract.
- 1.1.29. **"Service Period"** means a period of 12 months commencing on the Ongoing Services Start Date or any subsequent 12 month period thereafter.
- 1.1.30. **"Set-up Services"** means the consultancy services to be provided by the Provider in co-operation with the Customer to enable the system to be ready for use by the Customer.
- 1.1.31. **"Set-up Services Fee"** means the fee for the Set-up Services as defined in Schedule C to this Agreement.
- 1.1.32. **"Services"** means the Set-up Services and the Ongoing Services together.
- 1.1.33. **"Software"** means the Provider's proprietary software used to provide the Services.
- 1.1.34. **"System Management Regulations"** means regulations introduced by the Provider from time to time for the better management of the Services and which may include (but are not limited to):
 - 1.1.34.1. minimum specifications for equipment used by the Customer to interface with the Services (including , but not limited, to routers, firewalls, scanners and PC's);

- 1.1.34.2. measures to ensure that the network through which the Services are provided is not overloaded
- 1.1.34.3. measures to ensure that the security and integrity of the network is maintained
- 1.1.34.4. measures to ensure that compliance with requirements of any data centre facility engaged by the Provider in connection with the Services; and
- 1.1.34.5. measures to ensure that any database or other applications which form part of the Services are used to the best effect and within their capacities.
- 1.1.35. **"Term"** means the term of this Agreement commencing on the Commencement Date until this Agreement is terminated pursuant to clauses 3 or 12.
- 1.1.36. **"Working Hours"** means 09:00 to 17:30 (GMT) Monday to Friday, excluding UK bank and public holidays.
- 1.2. Unless the context otherwise requires, words in the singular shall include the plural and in the plural shall include the singular, and a reference to one gender shall include a reference to the other gender.
- 1.3. Any words following the terms including, include, in particular, for example or any similar expression shall be construed as illustrative and shall not limit the sense of the words, description, definition, phrase or term preceding those terms.
- 1.4. Any approval or consent required under this agreement shall not be unreasonably withheld or delayed, unless stated otherwise.
- 1.5. Reference to a statute or statutory provision is a reference to it amended, extended or re-enacted from time to time.
- 1.6. A reference to any Party shall include that Party's personal representatives, successors and permitted assigns
- 1.7. Clause, Schedule and paragraph headings shall not affect the interpretation of this Agreement.

2. **Provision of services**

- 2.1. The Provider agrees with effect from the Commencement Date, in consideration of the payment of the Set-up Services Fee by the Customer to supply the Set-up Services.
- 2.2. The Provider agrees with effect from the Ongoing Services Start Date, in consideration of the payment of the Ongoing Services Fee by the Customer to supply the Ongoing Services on a non-exclusive basis.
- 2.3. The Customer acknowledges that the Provider may at any time, and without notice, incorporate user management controls into the Software for the purposes of ensuring that agreed user numbers are not exceeded. The agreed user numbers will be set out in the Proposal.

3. **Term**

This Agreement shall commence on the Commencement Date and shall (subject to the provisions for termination set out in this Agreement) continue for a fixed-term until the 31st of March 2023 (the Initial Period). The Customer may thereafter elect to extend the Agreement by multiple periods, each of not less than 12 months, by giving written notice

to the Provider not fewer than ninety (90) days prior to the then current end-date for the Agreement.

4. Fees for Services

- 4.1. The Customer undertakes to pay to the Provider the Set-up Services Fee and the Ongoing Services Fee for the Services and such additional fees as may be applicable in accordance with Schedule C and this Agreement.
- 4.2. The Provider will raise its invoice in respect of the Set-up Services Fee monthly in arrears, as the services are worked.
- 4.3. The Provider will raise its invoice in respect of the Ongoing Services sixty (60) days after the Commencement Date, or upon solution go-live, whichever date is the earlier.
- 4.4. All invoices are payable within 30 days after the date thereof unless otherwise agreed in writing.
- 4.5. The Provider shall be entitled to charge interest in respect of the late payment of any sums due under this Agreement (as well after as before judgement) at the rate of 3 per cent per annum above the base rate of Barclays Bank plc from the due date until payment.
- 4.6. The Provider shall be entitled to increase the Ongoing Services Fee with effect from each anniversary of the Ongoing Services Start Date by giving at least 30 days' prior written notice to the Customer. Such increase (save with respect to any increases due to a rise in third party costs) shall not exceed the percentage increase (if any) of the United Kingdom rate of the retail prices index as published by the Office for National Statistics.
- 4.7. All sums due under this Agreement are expressed exclusive of UK Value Added Tax which will be payable by the Customer if applicable.

5. Service Levels

- 5.1. The Provider undertakes with the Customer that it will use reasonable endeavours to ensure that the Services and each component thereof will, subject to Clauses 6.3, 7.3, 10.4 and 15, be provided to the levels of performance specified in the Service Levels save where otherwise expressly provided for by this Agreement.

6. Outages, Service Interruptions and Changes to Services

- 6.1. Outages or Service Interruptions may be made by the Provider when in its reasonable opinion they are necessary to facilitate improvements to or maintenance of the Services. The Provider will use its reasonable endeavours to minimise the Outages or Service Interruptions that may be caused by these.

- 6.2. If Outages or Service Interruptions are required under clause 6.1 ("**Scheduled Interruptions**"):

- 6.2.1. The Provider will use its reasonable endeavours to schedule Scheduled Interruptions so as to minimise impact on the Services and will notify the Customer of the anticipated commencement time of the Scheduled Interruption and its estimated duration.

6.3. Customer requested Service Interruptions or Outages will be fulfilled but will not be considered a break in service by the Provider and will not be considered when calculating breaches of the Service Level Agreement for any purpose or give rise to any liability on the part of the Provider.

7. Warranties and indemnities

7.1. The Provider warrants to and undertakes with the Customer that:

7.1.1. The Provider will use its reasonable efforts to provide the Services and to exercise reasonable care and skill and in accordance with the terms of this Agreement;

7.1.2. The Provider has full right power and authority to provide the Services to the Customer in accordance with the terms of this Agreement; and

7.1.3. Subject to the Customer's instructions pursuant to clause 14.2, the Provider has all requisite registrations under applicable Data Protection Legislation and will maintain such registrations throughout the Term and will comply with the provisions of the applicable Data Protection Legislation.

7.1.4. The Provider will conduct appropriate training and oversight of its employees or agents that have compliance responsibilities to ensure that its Services comply with applicable law; and

7.1.5. The Provider will have appropriate internal controls to ensure that its Services comply with applicable laws.

7.2. Except for the express warranties set forth in this clause 7, the Services are provided on an "as is" basis, and the Customer's use of the services is at its own risk. The Provider does not make, and hereby disclaims to the fullest extent permitted by law, any and all other express and/or implied warranties, statutory or otherwise, including, but not limited to, warranties of merchantability, fitness for a particular purpose and any warranties arising from a course of dealing, usage, or trade practice. The Provider does not warrant that the Services will be uninterrupted, error-free, or completely secure.

7.3. The Provider cannot control the flow of data beyond its internal network or on the Internet. The Provider will use reasonable efforts to mitigate the impact of interruptions to the Services arising from events beyond its internal network but disclaims any and all liability resulting from or related to such events.

8. Customer Obligations and Warranties.

8.1. The Customer is required at all times during the term to maintain the Customer Equipment in good order and working condition.

8.2. In the event that the Customer is in breach of any of its obligations under this Agreement, then:

8.2.1. The Provider has no liability for breach of Service Levels as a result (directly or indirectly) of such Customer breach and no service credits will accrue;

8.2.2 The Provider shall be entitled to charge the Customer for staff time reasonably necessary for the restoration of the Services any resulting problems at the Provider's standard charge rates for the time being; and

8.2.3 The Provider may at its sole discretion but acting reasonably terminate or suspend the Services without prejudice to any pre-existing rights and obligations of either party.

8.3. The Customer represents, warrants and undertakes that:

8.3.1 it has and shall during the Term have the legal right and authority to place and use and have used any of its equipment as contemplated under this Agreement;

8.3.2 it will use and permit the use of the Services only for lawful purposes and in accordance with this Agreement; and

8.3.3 any software, data, equipment or other materials provided by the Customer to the Provider or employed by the Customer in its use of or receipt of the Services shall not infringe any Intellectual Property Rights of any third party and shall not be obscene or defamatory of any person and shall not violate the laws or regulations of any state which may have jurisdiction over such activity.

8.4. The Customer shall provide all such assistance, facilities and information to the Provider as the Provider may reasonably require in order to enable it to carry out its obligations under this Agreement.

8.5. In the event of any breach of any of the foregoing representations or warranties, in addition to any other remedies available at law or in equity, the Provider will have the right to suspend immediately any related Services if deemed reasonably necessary by the Provider to protect the proper interests of the Provider or its other customers. If practicable and depending on the nature of the breach, the Provider may (in its absolute discretion) give the Customer an opportunity to cure. In such case once the Customer has cured the breach, the Provider will promptly restore the Service(s).

9. Security

9.1. Each party recognises that it is impossible to maintain flawless security but (where relevant) the Provider shall take reasonable steps to prevent security breaches. The Provider will at all times maintain appropriate administrative, technical, and physical safeguards for all Customer Data, which includes (i) patching operating systems and relevant applications in a timely manner (within 45 days on non-critical vulnerabilities and one week for critical vulnerabilities; (ii) regular vulnerability and penetration testing against the network and the provided application with summary reports made available to the Customer; (iii) internal administrative controls to ensure Provider's employees and contractors have controlled access to Customer data and relevant systems – this must be verified by a SOC Type 2/ISO 27001 certification report (or similar) which will be made available to Customer on an annual basis. These safeguards will (a) ensure the confidentiality of Customer Data, (b) protect against any anticipated threats or hazards to the security or integrity of such records; and (c) protect against unauthorized access to or use of such records or information that would result in substantial harm or inconvenience to any consumer, as required by the GLBA and all other applicable laws.

In connection with these requirements, the Provider will ensure compliance with the obligations set forth in **Schedule B**.

9.2. The Customer is responsible for maintaining the confidentiality of any passwords which are required to access the Software and the Services and is solely responsible for any damage caused by any such unauthorised access.

9.3. If the Provider discovers that there has been a material breach in the security safeguards required by this Agreement regarding Customer Data, or if the security of Customer Data has been compromised for any reason, the Provider shall as soon as reasonably practicable notify Customer and take all reasonable and appropriate steps to protect any Customer Data potentially affected by the breach. If appropriate and directed by Customer to do so, the Provider must also notify applicable state and federal regulatory agencies and cooperate with any investigations conducted by the agencies in connection with the breach.

10. Limitation of liability

10.1. Neither party shall be liable for any loss or damage of whatsoever nature suffered by the other party arising out of or in connection with any act, omission, misrepresentation or error made by or on behalf of the other party or arising from any cause beyond the other party's reasonable control.

10.2. Neither party is liable for any indirect loss, consequential loss, loss of profit, revenue, data or goodwill howsoever arising suffered by the other party or for any wasted management time, failure to reconstitute data, failure to make anticipated savings or liability of the other party to any third party arising in any way in connection with this Agreement or any maintenance or other agreement entered into between the parties or for any liability of the other party to any third party or otherwise whether or not such loss has been discussed by the parties pre-contract or for any account for profit, costs or expenses arising from such damage or loss.

10.3. The Customer accepts that the Provider is in no way liable for any virus or other contaminants which enter the Customer's email system or computer network via email.

10.4. The Provider shall not be liable for any interruptions to the Services or Outages arising directly or indirectly from:-

10.4.1 interruptions to the flow of data to or from the internet;

10.4.2 the effects of the failure or interruption of services provided by third parties;

10.4.3 factors outside of the Provider's reasonable control;

10.4.4 any actions or omissions by the Customer (including, without limitation, breach of the Customer's obligations set out in this Agreement or set out in a Proposal or;

10.4.5 problems with the Customer's equipment and/or third party equipment;

10.4.6 interruptions to the Services requested by the Customer.

10.5. None of the clauses above shall apply so as to restrict liability for death or personal injury resulting from the negligence of the Provider or its appointed agents.

10.6. The annual aggregate liability under this Agreement of either Party for all defaults shall in no event exceed 125% of the price paid or payable for the Services in the 12 months immediately preceding a claim.

10.7. The Customer agrees that it is in a better position to foresee and evaluate any loss it may suffer in connection with this Agreement and that the Service Fee has been calculated on the basis of the limitations and exclusions in this clause 10 and that the Customer will effect insurance as is suitable having regard to its particular circumstances and the terms of this clause 10.

11. Intellectual property rights

11.1 Each party's Intellectual Property Rights existing before the Commencement Date will remain the exclusive property of that party.

11.2 Without prejudice to the Customer's rights in its own materials, the parties hereby agree that the Customer shall not acquire any Intellectual Property Rights whatsoever in respect of the Software, documentation and other materials used by the Provider in connection with or related to the provision of the Services hereunder. Notwithstanding the foregoing, Provider grants Customer a non-exclusive, non-transferable licence without the right to sub-licence to use the Services for the term of this Agreement subject to payment of the applicable fees.

11.3 The Provider warrants that it has all necessary right, title and interest to grant the foregoing licence and otherwise enable the Customer to benefit from the Services in accordance with this Agreement.

11.4 The Customer hereby grants to the Provider:

11.4.1 Subject to the data security and confidentiality obligations of this Agreement, a limited, non-exclusive, non-transferrable, revocable, royalty-free, world-wide licence during the Service Period to use, copy, reproduce, and manipulate Customer Data for the sole purpose of providing the Services; and;

11.4.2 a non-exclusive, royalty-free, world-wide licence during the Term to use, reproduce and display the Customer's trade marks in connection with the provision of the Services.

11.5 Subject to any contrary provision in this Agreement, the Provider undertakes only to use the Customer's trade marks for the purpose of providing the Services.

12. Termination

12.1. For the purposes of this clause 12, the following events shall be deemed "acts of default":

12.1.1 if the Customer fails to pay any monies due pursuant hereto within 7 days of the due date therefor;

12.1.2 if a party commits any material breach of any term of this Agreement (other than one falling under clause 12.1.1 above) and which, in the case of a breach capable of being remedied, shall not have been remedied within 30 days of a written request by the other party to remedy the same;

12.1.3 if either party fails to comply with any data security or confidentiality obligations in this Agreement;

12.1.4 if a party shall convene a meeting of its creditors or if a proposal shall be made for a voluntary arrangement within Part I of the Insolvency Act 1986 or a proposal for any other composition scheme or arrangement with or assignment for the benefit of its creditors or if the other shall be unable to pay its debts within the meaning of section

123 of the Insolvency Act 1986 or if a trustee, receiver, administrative receiver, administrator or liquidator or similar officer is appointed in respect of the other party or all or any part of its business or assets or if a petition is presented or a meeting is convened for the purpose of considering a resolution or other steps are taken for the winding up of the other party or for the making of an administration order (otherwise than for the purpose of an amalgamation or reconstruction) or if any analogous step is taken in any jurisdiction.

- 12.2.** If the Customer commits an act of default then the Provider may:
 - 12.2.1** forthwith suspend the provision of the Services hereunder (or any of them or any part of them) and no such suspension shall be deemed a breach of any term or provision of this Agreement or give rise to any service credits; or
 - 12.2.2** terminate this Agreement by notice in writing forthwith.
- 12.3.** If the Provider commits an act of default and is unable to cure such default within 7 days of receipt of written notice thereof then the Customer may terminate this Agreement by notice in writing forthwith and will be entitled to a pro-rated refund of amounts already paid for Services not yet received.
- 12.4.** Any termination of this Agreement for any reason shall be without prejudice to any other rights or remedies a party may be entitled to hereunder or at law and shall not affect any accrued rights or liabilities of either party nor the coming into force or the continuance in force of any provision hereof which is expressly or by implication intended to come into or continue in force on or after such termination.
- 12.5.** In the event of termination of this Agreement:-
 - 12.5.1** the Customer agrees to promptly to pay to the Provider all outstanding payments;
 - 12.5.2** the Provider's entitlement to use the Customer's trade marks ceases immediately except as necessary for the provision of any post-termination services;
 - 12.5.3** the Customer shall be entitled to receive a copy of its database by giving at least 14 days' prior written notice to the Provider. The Provider in its sole discretion may agree to provide any further assistance reasonably requested by the Customer in connection with the hand-over to a third party regarding any services provided by the Provider hereunder, and the Customer shall pay the Provider in accordance with its then current standard rates for any such assistance. The Provider also agrees, upon request from the Customer, to delete or otherwise securely destroy all Customer Data in the Provider's possession, custody, or control (including without limitation any Customer Data in the possession, custody, or control of the Provider's vendors or subcontractors).
- 12.6.** Termination of this Agreement shall be without prejudice to any rights or obligations which shall have accrued prior to such termination.

13. Confidentiality and Ownership of Customer Data

- 13.1.** Each of the Provider and the Customer hereby undertakes with the other to:
 - 13.1.1** keep confidential all Confidential Information;
 - 13.1.2** not without the Customer's written consent disclose the Customer Data in whole or in part to any other person save those of its employees agents and sub-contractors

involved in the provision or receipt of the Services and who have, and to the extent that they have, a need to know the same; and

- 13.2. The provisions of clause 13.1 above shall not apply to the whole or any part of the Confidential Information to the extent that it is:
 - 13.2.1 trivial or obvious;
 - 13.2.2 already in the other's possession without duty of confidentiality on the date of its disclosure;
 - 13.2.3 in the public domain other than as a result of a breach of this clause; or
 - 13.2.4 to the extent that disclosure of such information may be required by any governmental agency or by operation of law and, in either such case, the party required to make such disclosure shall use reasonable endeavours to notify the other party of such requirement prior to making the disclosure.
- 13.3. Each of the Provider and the Customer hereby undertakes to the other to make all relevant employees agents and sub-contractors aware of the confidentiality of any Confidential Information and the provisions of this clause 13.
- 13.4. For the avoidance of doubt, all Customer Data shall remain at all times the exclusive property of the Customer and may only be used by the Provider in order to fulfil its obligations pursuant hereto.
- 13.5. The Provider shall assist and cooperate with the Customer to enable the Customer to comply with the information disclosure requirements under the Acts and in so doing will comply with any reasonable timescale notified to it by the Customer.

14. Data Protection

Controller and Processor

- 14.1 The Provider and the Customer agree that for the Purposes of Data Protection Legislation that the Customer is and shall remain the Data Controller and that Provider shall be a Data Processor in respect of any Personal Data which is transferred to it from the Customer as part of the Customer Data during its performance of its obligations pursuant to this Agreement.
- 14.2 As a Data Processor the Provider shall process the Personal Data only in accordance with the Customer's instructions from time to time and shall not process the Personal Data for any purpose other than enabling it to fulfil its obligations pursuant to this Agreement or to perform any other activity which may be expressly authorised by the Company from time to time.
- 14.3 For the avoidance of doubt, the Software provided by Provider may use Personal Data entered into it by the Customer to perform functions of the following nature (the precise nature of which will depend on the configuration of the Software by the Customer):
 - 14.3.1 the facilitation of data entry and the management of personal records;
 - 14.3.2 enable the sending by the Customer of correspondence to identified Data Subjects (the content of which shall be determined solely by the Customer);

14.3.3 enable the generation of reports; and

14.3.4 such other operations as the Customer may configure and require from time to time.

14.4 The Provider shall take steps to ensure that its employees are informed of their obligations in relation to Personal Data and that they hold, and shall process such information in confidence and in accordance with all relevant Data Protection Legislation.

14.5 The Provider is currently planning to store the personal data it uses or collects in Ireland. However, the Provider has undertaken to the Customer to repatriate these data and store them in a UK location certainly before the 31st of December 2021, if not earlier.

Data Protection Warranties

14.5. Each Party warrants to the other that it will comply with all applicable Data Protection Legislation.

14.6. For the avoidance of doubt the Customer warrants that the Customer Data, and in particular all Personal Data inherent therein, has been collected and stored in compliance with all applicable law, and that it has all necessary consents, permissions and authorisations to provide it to the Provider for the purposes contemplated by this Agreement and all further purposes that the Customer may instruct from time to time

14.7. In accordance with its function as a Data Processor pursuant to this Agreement the Provider warrants that:

- (a) having regard to the state of the art of technological development, the nature of the processing in question, and the material risk to the rights of affected Data Subjects, it shall take appropriate technical and organisational measures to secure relevant Personal Data against the unauthorised or unlawful processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data;
- (b) it will not transfer any Personal Data outside of the European Economic Area without the prior authorisation of the Customer;
- (c) to the extent that the Software does not enable the Customer to extract such information independently, it will assist the Customer, insofar as reasonably possible and at the Customer's expense, in responding to any requests made by any relevant Data Subject which concern the exercise of that Data Subjects rights under the GDPR;
- (d) it shall report to the Customer any suspected data breach concerning the Personal Data and shall assist the Customer to inform the relevant regulator and affected Data Subjects; and
- (e) it shall, on reasonable request and with adequate notice, demonstrate to the Data Controller, to the extent that is reasonable given the nature of the processing in question, that it complies with Data Protection Legislation. Where any such demonstration requested by the Customer is unduly burdensome or involves the completion of documentation supplied by the Customer, Provider reserves the right to charge the Customer a fee to cover the necessary time to be incurred.

Data Protection Indemnity

14.8. Each Party agrees to indemnify and keep indemnified and defend at its own expense the other Party against all costs, claims, damages or expenses incurred by the other Party or

for which the other Party may become liable due to any failure by the first Party or its employees or agents to comply with any of its obligations pursuant to this clause 14. In order to avail itself of this indemnity the claiming party must: promptly notify the indemnifier of any relevant claim of which the indemnified party becomes aware; not make any admission of liability or offer to settle in respect of any relevant claim without the prior written permission of the indemnifier; grant the indemnifier full control of all relevant proceedings on request, and; provide the indemnifier with such assistance in dealing with such claims as it may reasonably request.

15. Transparency

15.1. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA and the EIR, the content of this Agreement is not confidential. The Customer shall be responsible for determining in its absolute discretion whether any of the content of the Agreement is commercially sensitive to the Provider and exempt from disclosure in accordance with the provisions of the FOIA, the EIR, a Court Order, or any other Statutory requirement.

16. Freedom of Information

16.1. The Provider acknowledges that the Customer is a public and therefore subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and co-operate with the Authority (at the Service Provider's expense) to enable the Authority to comply with these information disclosure requirements.

16.2. The Provider shall and shall procure that its Subcontractors shall:

16.2.1. transfer any Request for Information to the Customer as soon as practicable after receipt and in any event within two Working Days of receiving a Request for Information;

16.2.2. provide the Customer with a copy of all Information in its possession or power in the form that the Authority requires within five Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and

16.2.3. provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

16.3. In no event shall the Provider respond directly to a Request for Information unless expressly authorised to do so by the Customer.

16.4. The Provider acknowledges that the Customer may (acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of FOIA (issued under section 45 of the FOIA, November 2004) (Code)) be obliged under the FOIA or the Environmental Information Regulations to disclose Information:

16.4.1. without consulting with the Provider; or

16.4.2. following consultation with the Provider and having taken its views into account,

16.4.3. provided always that where clause 15.4(a) applies the Customer shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advance notice, or failing that, to draw the disclosure to the Provider's attention after any such disclosure.

16.5. The Service Provider shall ensure that all Information produced in the course of the Framework Agreement or relating to the Framework Agreement is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

17. No Corruption/Bribery

17.1. The Customer may terminate this Agreement and recover all its loss from the Provider, if the Provider, its employees or anyone acting on the Provider's behalf do any of the following things:

(i) offer, give or agree to give to anyone any personal inducement or reward in respect of this or any other Customer contract (even if the Provider does not know what has been done); or

(ii) commit an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or

(iii) commit any fraud in connection with this or any other Customer contract whether alone or in conjunction with contractors or employees.

17.2. Any Clause limiting the Provider's liability in this regard shall not apply to this Clause.

17.3. The Provider shall comply with its own No Corruption/Bribery policy (<https://www.civica.com/en-gb/policies-and-statements/anti-bribery-policy/>)

18. Anti-Slavery

18.1. In performing its obligations under the agreement, the Provider shall:

18.1.1. comply with all applicable anti-slavery and human trafficking laws, statutes, regulations from time to time in force including but not limited to] the Modern Slavery Act 2015;

18.1.2. The Provider shall comply with its own Anti-slavery Policy (<https://www.civica.com/en-gb/policies-and-statements/modern-slavery/>).

19. Force majeure

19.1. Neither party hereto shall be liable for any breach of its obligations hereunder, except in respect of payment, resulting from causes beyond the reasonable control of the party in default (or its sub-contractors) including but not limited to act of God, war, insurrection, riot, civil commotion, Government regulation, embargo, explosion, strike, labour dispute, illness, flood, fire or tempest (an 'Event of Force Majeure'). Any time limit or estimate for a party to perform any act hereunder shall be suspended during an Event of Force Majeure.

19.2. Each of the parties hereto agrees to give notice forthwith to the other upon becoming aware of an Event of Force Majeure such notice to contain details of the circumstances giving rise to the Event of Force Majeure.

19.3. If a default due to an Event of Force Majeure shall continue for more than 30 days then the party not in default shall be entitled to terminate this Agreement. Neither party shall have any liability to the other in respect of the termination of this Agreement as a result of an Event of Force Majeure but such termination shall not affect any pre-existing rights or obligations of either party.

20. Waiver

The waiver by either party of a breach or default of any of the provisions of this Agreement by the other party shall not be construed as a waiver of any succeeding breach of the same or other provisions nor shall any delay or omission on the part of either party to exercise or avail itself of any right, power or privilege that it has or may have hereunder operate as a waiver of any breach or default by the other party.

21. Invalidity and severability

If any provision of this Agreement shall be found by any court or administrative body of competent jurisdiction to be invalid or unenforceable the invalidity or unenforceability of such provision shall not affect the other provisions of this Agreement and all provisions not affected by such invalidity or unenforceability shall remain in full force and effect. The parties hereby agree to attempt to substitute for any invalid or unenforceable provision a valid or enforceable provision which achieves to the greatest extent possible the economic legal and commercial objectives of the invalid or unenforceable provision.

22. Entire agreement

This Agreement and the Proposal if one has been issued by the Provider, constitute the entire agreement between the parties hereto relating to the subject matter hereof. In entering into this Agreement neither party has relied on any representation made by the other party unless such representation is expressly included herein. Nothing in this clause 18 shall relieve either party of liability for fraudulent misrepresentations and neither party shall be entitled to any remedy for either any negligent or innocent misrepresentation except to the extent (if any) that a court, arbitrator or expert appointed under clause 22 may allow reliance on the same as being fair and reasonable.

23. Successors

This Agreement shall be binding upon and ensure for the benefit of the successors in title of the parties hereto.

24. Assignment

The Customer shall not be entitled to assign this Agreement nor all or any of its rights and obligations hereunder.

25. Sub-contracting

The Provider shall be entitled to sub-contract the whole or any part of its obligations hereunder to any third party but shall remain liable as if it were performing the Services itself.

26. Disputes

26.1. All disputes or differences which shall at any time hereafter arise between the Provider and the Customer in respect of the construction or effect of this Agreement or the rights duties and liabilities of the parties hereunder or any matter or event connected with or arising out of this Agreement (a 'Relevant Event') shall be referred to such independent third party (the 'Third Party') as the Provider and the Customer shall jointly nominate.

26.2. If the Provider and the Customer shall fail to nominate a Third Party within 14 days of the date of occurrence of the Relevant Event then the Third Party shall be nominated at

the request of either the Provider or the Customer by the President for the time being of the British Computer Society.

26.3. The Third Party shall act as an expert and not as an arbitrator whose decision (including as to costs) shall, except in the case of manifest error, be final and binding upon the Provider and the Customer.

27. Law

This Agreement shall be governed by and construed in accordance with English law and (subject always to clause 22) the parties submit to the exclusive jurisdiction of the courts of England and Wales.

SCHEDULE A: Service Level Agreement

This Civica Service Level Agreement ("SLA") is a contractual agreement governing the use of the managed services provided in respect of the Civica Product under the terms of the Agreement between Civica UK Ltd ("Civica") and the London Borough of Barnet ("the Customer"). Unless otherwise provided herein, this SLA is subject to the terms of the Agreement.

In the event of any inconsistency between this SLA and the terms of the Agreement, the terms of the Agreement shall prevail.

Definitions

"Agreement" means the agreement negotiated between the Customer and Civica relating to the Customer's use of the Civica Product for the purpose of delivering complaints management functionality.

"Civica Product" means Civica's iCasework solution, configured to meet the Customer's needs for complaints management.

"Live Environment" means the deployment of the Civica Product upon a hosting infrastructure with which the Customer's staff directly interact in order to consume the Civica Product.

"Normal Working Hours" means 09:00 to 17:00 Monday to Friday, excluding UK Bank and Public holidays.

"Outage" means a period when there is total loss of the Services.

"Quarterly Uptime Percentage" is calculated by subtracting from 100% the percentage of 5 minute periods during the Service Period in which the Civica Product was in the state of "Unavailable." If the Customer has been using the Civica Product for fewer than 90 days, the Service Period is the preceding 90 days, but any days prior to the Customer's use of the service will be deemed to have had 100% availability. Any downtime occurring prior to a successful Service Credit claim cannot be used for future claims. Quarterly Uptime Percentage measurements exclude downtime resulting directly or indirectly from any Civica SLA Exclusion (defined below).

"Scheduled Outage or Service Interruption" means an Outage or Service Interruption made by Civica when such outage or interruption was necessary to facilitate improvements to or maintenance of the Services. Civica will minimise such events and schedule them at times which cause minimal disruption to service users.

"Service Commitment" means that Civica will make the Civica Product available with an Uptime Percentage (defined below) of at least 99.8% during each Service Period.

"Service Credit" is a UK Pound credit, calculated as set forth below, that Civica will credit back in respect of an eligible Service Credit claim, or make as a cash payment. The Service Credit is the sole remedy for the failure to meet the SLA.

"Service Fee" means the fee payable annually in advance for the ongoing services delivery for the Civica Product.

"Service Interruption" means a period during which there is partial loss of the Services.

"Service Period" means one of four periods, each of three calendar months in any calendar year, namely January-March, April-June, July-September and October-December.

"Services" means the professional services required to implement the solution together with the ongoing services required to deliver and maintain the solution.

"Unavailable" means the inability of a user of the Civica Product to retrieve or update data maintained within the Civica Product, provided that the Customer's account is active and in good standing i.e. the Service Fee and any other fees have been duly paid.

"Working Day" means the period between 09:00 and 17:00 on a Monday to Friday, excluding UK Bank and Public holidays.

"Working Hour" means an hour within a Working Day.

Service Commitment

Except where downtime results directly or indirectly from any Civica SLA Exclusion (defined below), Civica will make the Civica Product available with a Quarterly Uptime Percentage of at least 99.8% during each Service Period. In the event that the Civica Product does not meet the Quarterly Uptime Percentage commitment, the Customer will be eligible to receive a Service Credit as defined below.

Service Credits

Service Credits will become due if one or more of the circumstances below apply:

1. The Quarterly Uptime Percentage falls below the specified level;
2. There is an incident or incidents in respect of the Civica Product categorised as P1 within a Service Period that Civica fails to resolve within the stated KPI.

The basis of calculation of each type of Service Credit within each Service Period is detailed below. The Service Credit due to the Customer in any given Service Period will be limited to a maximum of 10% of the Service Fee for the Civica Product x 25%. If there are multiple events that each individually would have entitled the Customer to a Service Credit, then when the value of those Service Credits in combination reaches the specified limit for the Civica Product, no further Service Credits will be due to the Customer in that Service Period.

Quarterly Uptime Percentage

If the Quarterly Uptime Percentage for the Live Environment drops below 99.8% for a Service Period, Civica will pay to the Customer a Service Credit as per the measures set out below:

Quarterly Uptime Percentage Range	Service Credit Percentage
Greater than or equal to 99.8%	0%
97.50%-99.79%	2.50% of Service Fee x 25%
95.00%-97.49%	5.00% of Service Fee x 25%
Less than or equal to 94.99%	10.00% of Service Fee x 25%

If Unavailability of the Civica Product meets or exceeds 10 percent (i.e., only 90 percent availability) at any time during any Service Period (each a "Chronic Outage"), the Customer will be entitled to terminate the Agreement without penalty or further obligations to Civica and will be entitled to a refund of amounts already paid for Services not yet received.

P1 Incident(s)

Each P1 incident in respect of the Civica Product within a Service Period where Civica fails to achieve a resolution in accordance with the stated KPI will entitle the Customer to a Service Credit of 2.50% of the Service Fee x 25%, subject to the maximum limit stated above.

Credit Review and Payment Procedures

Quarterly Service Reviews will take place in the first month following the end of a Service Period. Quarterly Service Reviews will be held remotely. No additional charge will be made by Civica for its participation in Quarterly Service Reviews.

The Quarterly Service Reviews will include a review of the agreed measures which if not met, cause a Service Credit to become payable to the Customer.

Provided there are at least a further 12 months of the Agreement outstanding, Civica will apply any Service Credits against the next Service Fee due from the Customer. Only in the final year of the Agreement will Service Credits entitle the Customer to a refund from Civica.

In the event that the Agreement has less than 12 months outstanding prior to expiry, any Service Credit will be made as a payment via bank transfer no later than in the third month of the Service Period subsequent to the Service Period to which the Service Credit applies.

A Service Credit shall represent a genuine pre-estimate of loss in relation to the quality of service delivered. The Customer therefore accepts and acknowledges that Service Credits are the sole financial remedy in relation to failure by Civica to meet the specified service levels. In the event that the Service Credit Cap is reached in any Service Period, the Customer shall have the right to terminate this agreement and Civica shall make a pro rata refund of any Service Fee paid for any period beyond the effective date of termination in full and final settlement of any claim the Customer may have in respect of such a situation.

Service Credits may not be transferred or applied to any other account.

Civica SLA Exclusion

The Service Commitment does not apply to any unavailability, suspension or termination of the Civica Product, or any other performance issues associated with the Civica Product:

- (i) That result from a Scheduled Outage or Service Interruption
- (ii) Service Interruptions or Outages requested by the Customer will be fulfilled but will not be considered a break in service by Civica and will not be considered when calculating breaches of the Service Level Agreement for any purpose or give rise to any liability on the part of Civica.
- (iii) Civica cannot control the flow of data beyond our internal network or on the Internet. Civica will use reasonable efforts to mitigate the impact of interruptions to the Services arising from events beyond its internal network.
- (iv) Civica shall not be liable for any interruptions to the Services or Outages arising directly or indirectly from:
 - a. the effects of the failure or interruption of services provided by third parties appointed by the Customer;
 - b. any actions or omissions by the Customer (including, without limitation, breach of obligations as set out in this SLA or the Agreement or;
 - c. problems with the Customer equipment and/or third party equipment for which the Customer has contracted independently of Civica;
 - d. interruptions to the Services requested by the Customer.
- (v) Arising from Civica's suspension and termination of the Customer's right to use the Civica Product in accordance with the Agreement.

Technical Support

Civica will provide the Customer's authorised account contacts with technical support in respect of issues related to the Civica Product. Only authorised account contacts may request information, changes or technical support. Civica allocates a severity status to all technical failures and aims to resolve the problem within the timescales given below. The response time will depend on the complexity of the issue and support request volumes at that time.

Category	Severity	Acknowledge	Time Coverage
P1	Critical – An issue which may result in the complete loss of the Civica Product (system down).	Within 2 hours of the fault being raised by the Customer.	24 hours a day, 7 days a week.
P2	Impaired – An issue that affects many users and disrupts the normal running of the system.	Within 1 day of the fault being raised by the Customer, within Working Hours.	Monday to Friday (9 am to 5:30 pm GMT/BST)
P3	Minimal - An issue that has minimal impact and does not affect the normal running of the system or for which a workaround is available.	Within 3 days of the fault being raised.	Monday to Friday (9 am to 5:30 pm GMT/BST)

SCHEDULE B: Data Security Obligations

In connection with providing the Services, the Provider must employ industry-best practices, including without limitation the following:

- Complying with and maintaining its ISO 27001 certification; and
- The Provider will continue to ensure the timely update of such certifications and otherwise continuously employ industry best-practices as they change over time or as may be required by applicable law. A copy of the ISO 27001 certification and report will be provided to the Customer upon request (report may be redacted of private/confidential information if such redaction does not hinder or alter overall findings).
- The Provider will encrypt Customer Data at all times using industry-best encryption.
- All vendors and subcontractors the Provider uses in connection with the Services must have, with regard to the services they are providing to the Provider:
 - A current ISO 27001 certification; and
 - A current and successfully completed (i.e., a favourable opinion for) Statement on Auditing Standards No. 70 ("SAS70") Type II Audit; and
 - A current and successfully completed Service and Organization Controls ("SOC 3) Report.

The Provider must require such vendors and subcontractors to continue to timely employ industry best-practices, including by updating such certifications and standards as they change over time or as may be required by applicable law.

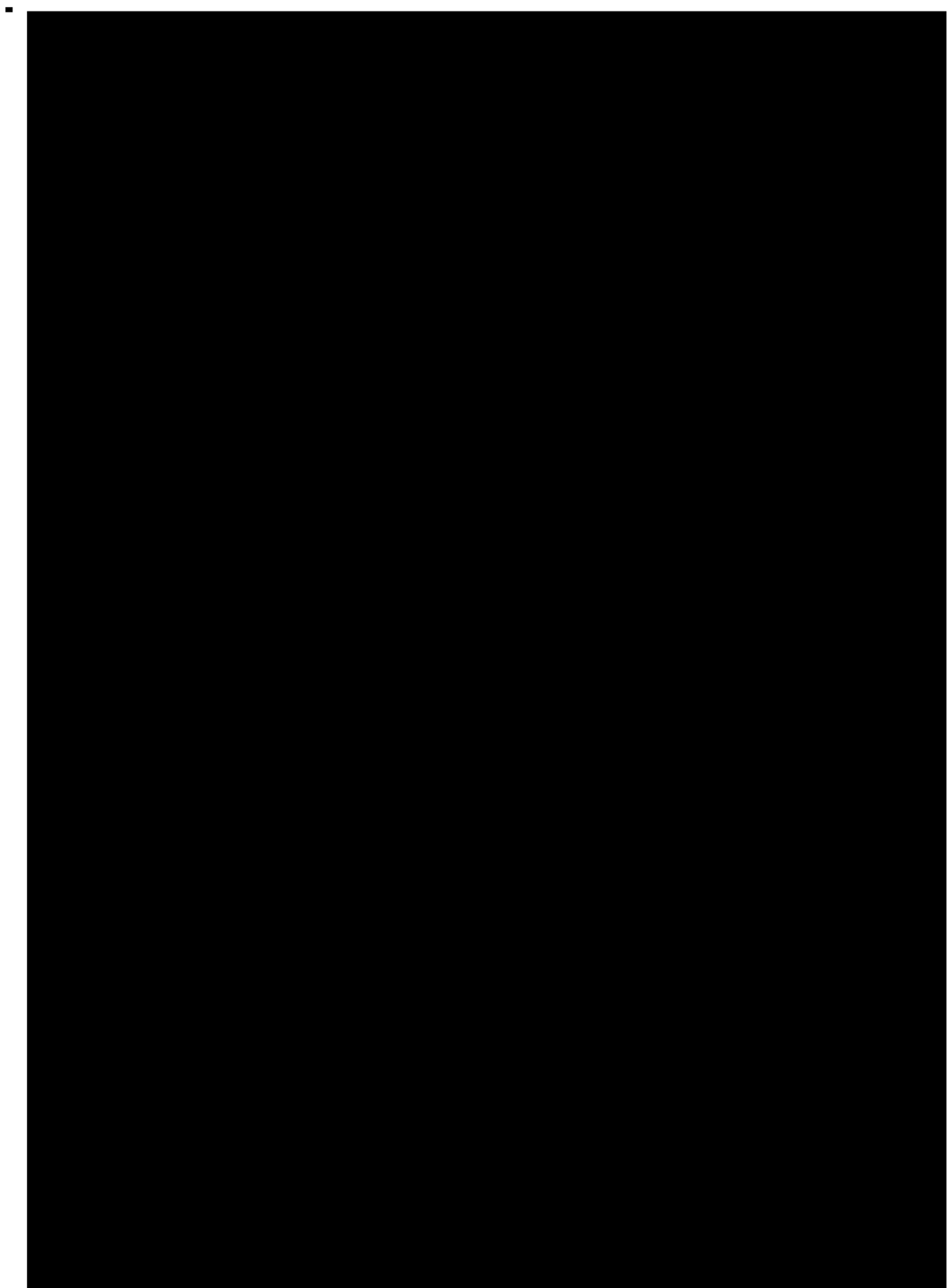
The Provider will immediately notify Customer if any vendor or subcontractor involved with the Services shall fail to meet these standards, and Customer will thereafter have the right to terminate this Agreement without any penalty or further obligation to the Provider.

The Provider shall in relation to the Customer Data:

1. Implement appropriate technical and organizational measures to ensure a level of security appropriate to that risk, including, as appropriate, the measures referred to in Article 32(1) of the General Data Protection Regulations (Regulation (EU) 2016/679) (**GDPR**).
2. Implement and maintain appropriate technical and organizational measures to protect the Customer Data against unauthorized or unlawful processing and against accidental loss, destruction, damage, theft, alteration or disclosure of information. These measures shall be (i) proportionate in relation to the harm which might result from any unauthorized or unlawful processing, accidental loss, destruction, damage or theft of Customer Data, and (ii) appropriate for the nature of the Customer Data which is to be protected. The technical and organizational measures will include adherence to compliance with the Information security Management Standard (ISO 27001:2013) and or any equivalent security measures accredited by an independent authority.

3. Prevent access to or transfer of, any Customer Data to any third parties (not directly related to providing the Service) without Customer's prior written consent.
4. Have in place appropriate technical and organizational measures for fulfilling its obligations to respond to requests from data subjects exercising their rights.
5. Ensure compliance with its obligations pursuant to Articles 32 to 36 of the GDPR.
6. Make available to Customer all information reasonably requested by Customer for the purpose of demonstrating that Provider obligations relating to the appointment of processors as set out in Article 28 of the GDPR have been met.
7. Ensure personnel required to access the Customer Data are subject to a binding duty of confidentiality with respect to such Customer Data.
8. Notify Customer within 24 hours of any accidental, unauthorized or unlawful destruction, loss, alteration, or disclosure of, or access to Customer Data that is processed in the course of providing the Service.
9. Upon expiration or earlier termination of the Agreement, upon Customer's written confirmation, securely destroy or return the Customer Personal Data in our possession within a reasonable time.

**SCHEDULE C:
Licensing and Charges**





SCHEDULE D:

The Proposal

The Proposal pertaining to this Agreement is that issued by the Provider, as referenced below:

London Borough of Barnet Complaints Case Management System submitted by Civica alongside this contract and dated 8th September 2021