



Supplier Agreement – Children’s Passenger Transport Services

Royal Borough of Greenwich – Managed by GS Plus

October 2019

**SUPPLIER AGREEMENT
DPS FOR CHILDREN'S PASSENGER TRANSPORT SERVICES**

Parties

1. Greenwich Service Plus Limited (managed on behalf of the Royal Borough of Greenwich) whose principal place of business is at Room 114, Birchmere Business Site Eastern Way, Thamesmead, London, SE28 8BF ("**Council**").
2. [FULL COMPANY NAME (as stated on SProc.Net)] incorporated and registered in England and Wales with company number [NUMBER (as stated on SProc.Net)] whose registered office is at [REGISTERED OFFICE ADDRESS (as stated on SProc.Net)] ("**Supplier**").

BACKGROUND

- (A) The Council placed a Contract Notice in the Official Journal of the European Union on 31 October 2019 to establish a Dynamic Purchasing System ("**DPS**") for the procurement of Children's Passenger Transport Services.
 - (B) In accordance with Regulation 34 of the Public Contracts Regulations 2015 ("**Regulations**"), the Council has used the restricted procedure to establish a DPS.
 - (C) The Council has contracted with adam HTT Limited trading as *adam* (registered company 07716565 – the "**Technology Provider**") to provide a web-based software system namely SProc.Net, or such other technology as agreed between the Parties from time to time (the "**Technology**"), to procure Services via the DPS as set out in the Regulations, as amended from time to time, and for such Services to be transacted as further set out in this Supplier Agreement.
 - (D) The Council shall admit to the DPS each Supplier that satisfies the Selection Criteria and has submitted a request to participate in the DPS which complies with the Specification and any additional documents produced by the Council.
 - (E) For the avoidance of doubt, there will be no obligation for the Council to award any contracts under the Supplier Agreement during its Term.
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Accreditation and Enrolment: the evaluation of a supplier's request to participate in the DPS and the subsequent admittance to the DPS of suppliers that fulfil the Council's Selection Criteria.

Contract: the agreement in respect of the provision of the Services consisting of the following listed documents which shall be interpreted as a single contractual arrangement: -

- 1 The Supplier Agreement;
- 2 The Self-Billing Agreement;
- 3 The Supplier Entry Guide;
 - 3.1 Application Guide
 - 3.2 Operational Guide
- 4 The Service Agreement(s).

Collectively called the "**Contract Documents**".

Dynamic Purchasing System or "DPS": the dynamic purchasing system operated via the Technology, which applies the procurement methodology provided for by Regulation 34 of the Regulations, as amended from time to time.

Offer: The Supplier's tender for the desired Services in response to the Council's Requirement.

Open for Offers: the period during which time the Supplier can create and submit their Offer within the Technology.

Regulations: The Public Contract Regulations 2015, as amended from time to time.

Replacement Services: services that are identical or substantially similar to any of the Services to be provided the Supplier, which the Council receives in substitution by a Replacement Supplier who has already been admitted to the DPS, following the termination or expiry of a Service Agreement with the Supplier.

Replacement Supplier: a third party supplier of Replacement Services admitted to the DPS and appointed by the Council from time to time.

Requirement: a detailed specification and request for Services made by the Council via the Technology.

Selection Criteria: the requisite criteria that a supplier must meet and maintain throughout the term of the DPS in order to successfully complete their Accreditation and Enrolment into the DPS.

Self-Bill Invoice: the invoice produced via the Technology on the Supplier's behalf, through which the Technology Provider shall process payment.

Self-Billing Agreement: an agreement between the Supplier and the Council, whereby the Supplier agrees to receive pre-populated Self-Bill Invoices generated through the Technology for the billing of the appropriate price and payment.

Service Agreement: The Parties' acceptance of a supplier's final Offer in response to the Council's corresponding Requirement incorporating the terms of this Supplier Agreement.

Service Receipt: the agreed record within the Technology of the completed delivery of Services as quantified and agreed between the Parties.

Signature Document: the signed document between the Council and the Supplier which constitutes the Parties' agreement to this Supplier Agreement and the creation of the overall Contract.

Supplier Agreement: the terms and conditions set out in this document.

Supplier Entry Guide: the entry guide issued by the Council detailing the operation of the DPS.

Technology: the proprietary web-based software owned and operated by the Technology Provider, currently called SProc.Net or such other technology as agreed between the Parties.

Technology Provider: the owner and provider of the Technology, adam HTT Limited t/a *adam* (registered company #07718565), who shall also act as the Council's payment service provider.

1 Scope

- 1.1 This Supplier Agreement governs the relationship between the Council and the Supplier in respect of the provision of Services by the Supplier to the Council when procured and/or transacted through the DPS. The Supplier must agree to the terms of the Supplier Agreement prior to acceptance into the DPS. For the avoidance of doubt, the Supplier's acceptance of the Supplier Agreement shall not guarantee the Supplier's acceptance into the DPS, which shall be subject to successful completion of the Accreditation and Enrolment
 - 1.2 In the event of a conflict between the terms of any of the Contract Documents, then the documents shall take precedence in the following order:
 - a) The Service Agreement;
 - b) The Supplier Agreement;
 - c) The Supplier Entry Guide;
 - i) Application Guide
 - ii) Operational Guide
 - d) The Self-Billing Agreement
 - 1.3 The Council may at its absolute discretion and from time to time, order Services from the Supplier in accordance with the procedure set out in the Supplier Entry Guide. The Supplier acknowledges that there is no obligation whatsoever on the Council to purchase any Services from the Supplier during the Term. Notwithstanding the fact that the Council has followed the procedure set out in this Supplier Agreement or Supplier Entry Guide, the Council shall be entitled at all times to decline to make an award for its Requirement.
 - 1.4 The Council may update the Supplier Entry Guide at any time throughout the Term of the Contract, provided that the Council provides all suppliers with fair and open access to such changes with reasonable advance notice.
 - 1.5 The Supplier warrants that all information submitted within the Accreditation and Enrolment is correct and accurate at the time of submission and shall ensure that all necessary and appropriate Accreditation and Enrolment checks and details are kept up to date throughout the Term. In the event that the Supplier's status or compliance to any of the Selection Criteria changes throughout the Term of the Contract, then the Supplier shall inform the Council immediately and the Supplier acknowledges that the Council reserves the right to, at its sole discretion, expel the Supplier from the DPS, dependent upon the nature of such changes, particularly if such changes are to the detriment of the performance or standards of this Contract.
 - 1.6 The Council reserves the right to request re-submission of any Selection Criteria or other Accreditation or Enrolment details throughout the duration of the Contract, and may perform audit checks of any such or existing Accreditation or Enrolment information.
 - 1.7 The Supplier acknowledges that once agreed via the Technology, a Service Agreement is a legally binding agreement between the Suppliers and the Council and must be adhered to in accordance with the terms of the Contract.
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2 DPS Process

2.1 The Council shall:

- a) offer all potential suppliers unrestricted, direct access to all appropriate documents, including the template Contract Documents and Selection Criteria by electronic means and to any additional documents relating to the provision of the Service from the date of publication of the contract notice to the date when the system ceases to be operated.
 - b) give any potential suppliers the opportunity to submit a 'request to participate' within the DPS via the Technology to proceed through the Accreditation and Enrolment process. Admission into the DPS is subject to the Supplier satisfying the Selection Criteria, passing the Council's review of the request to participate, and submitting a request to participate which complies with the Contract Documents and any additional documents produced by the Council.
 - c) complete the evaluation of a request to participate within 10 working days from the date of its submission or such longer period as the Council may determine
 - d) invite all applicable suppliers who have been admitted to the DPS to submit an Offer for each applicable Requirement within a time limit specified by the Council.
 - e) enter into a Service Agreement with the supplier who submits the Offer which best meets the Requirement and its appropriate award criteria, as may be specified in the Contract Documents, when choosing to enter into a contract via the DPS.
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3 Procurement Process

- 3.1 The Supplier acknowledges and accepts that Services shall be procured and/or transacted in accordance with the procedures detailed in the Contract.
- 3.2 The Supplier shall submit all Offers within the Technology in accordance with the procedures detailed in the Supplier Entry Guide, this Supplier Agreement, and as may be further supplemented within the Requirement.

- 3.3 **The Supplier shall submit all Offers within the Technology within a timely manner and no later than the deadlines established within the requisite Requirement or shall otherwise be excluded from the procurement process within the Technology.**
- 3.4 The Supplier shall submit all Service Receipts within the Technology within a timely manner. The Council reserves the right to consolidate each Service Receipt into such frequent Self-Bill Invoices as set out in the Self-Billing Agreement.
- 3.5 The Supplier agrees and acknowledges that all transactions governed by the Contract will be processed via the Technology. The Supplier shall not endeavour to process Requirements or Services for the Council that have been subject to the DPS outside of the Technology.
- 3.6 The Supplier shall ensure that the Services are provided in accordance with the Requirements, the consequent Service Agreement and the Contract Documents overall. Further, on request at any time, the Supplier must be able to evidence compliance with the same.
- 3.7 Where a Requirement is issued to the Supplier it shall state the type of or part of the Services required including the Council's necessary timescale for delivery of those Services.
- 3.8 The Supplier acknowledges that users of the Technology may submit a quality review or summary of the Supplier's performance under this Contract. Such reviews shall comprise the opinion of those submitting such comments only and not those of the Council. The Technology shall have a facility to report any abusive or derogatory comments, and the Council shall deal with such instances as the Council deems reasonably necessary.
- 3.9 If an Offer appears to be abnormally low, the Council may reject the Offer but only if it has:
- a) requested in writing from the Technology Provider details of the constituent elements of the Offer which are considered to contribute to the Offer being abnormally low;
 - b) taken account of the evidence supplied by the Supplier; and
 - c) verified those constituent elements with the Supplier;
- and concludes that the Supplier would not be able to carry out the Services to the required standards.
- 3.10 The amount of time provided to the Supplier to response to a Requirement shall be detailed within the Technology.
- 3.11 The Supplier shall neither subject the Council, the Technology Provider or the Technology, to derogatory or abusive treatment nor commit any act or omissions that would, bring the Council or the Technology Provider into disrepute. The Supplier acknowledges that in any such circumstances the Council or Technology Provider has the right to suspend the Supplier from activities within the Technology, in addition to any other remedies available in this Contract.

4 Payment

- 4.1 In consideration of the provision of the Services by the Supplier in accordance with the terms and conditions of the Contract, the Council shall pay the Charges to the Supplier in accordance with the Self-Billing Agreement.
- 4.2 The Council shall only raise a Self-Bill Invoice on behalf of the Supplier once the appropriate Service Receipt has been created and agreed between the Parties within the Technology and becomes payable in accordance with the Self Billing Agreement.
- 4.3 The Council shall pay the Charges which have become payable in accordance with the Self-Billing Agreement within thirty (30) days of the appropriate undisputed Self-Bill Invoice having been raised.
- 4.4 For the avoidance of doubt, the Supplier acknowledges and accepts that the Charges due for the Services provided under the Contract shall be paid by the Council via the Technology Provider, acting as the Council's payment service provider. To this extent, the Supplier acknowledges and accepts the Technology Provider can only pay the Supplier once it has received cleared funds from the Council. Any disputes regarding payment or the amount payable must first be directed to the Council.

5 Data Protection Definitions:

Data Controller means an entity that determines the purposes and means of the processing of Personal Data;

Data Processor means an entity that processes Personal Data on behalf of a Data Controller;

Data Protection Impact Assessments means a process to identify and minimise data protection risks;

Data Protection Legislation means:

- a) The Data Protection Act 2008;
- c) The General Data Protection Regulation 2016/679 (GDPR);
- d) The Privacy and Electronic Communications (EC Directive) Regulations 2003;
- e) Any other applicable data protection laws and regulations (including amended, supplemental or replacement laws and regulations) applicable in the United Kingdom;
- f) Codes of Conduct published by the Information Commissioner's Office (ICO).

Data Protection Officer means the member of staff responsible for overseeing data protection strategy and implementation to ensure compliance with Data Protection Legislation;

Data Subject means an individual who is the subject of Personal Data;

ICO means the Information Commissioners Office which is the supervisory authority for the United Kingdom;

Personal Data means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;

Personal Data Breach means a breach of security leading to the accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to, personal data transmitted, stored or otherwise processed;

Sub-Processor means a data processor contracted with the Supplier to process Personal Data on behalf of the Data Controller;

5.1 Each party will comply with all applicable requirements of the Data Protection Legislation.

- a) The Council is the Data Controller and the Supplier is the Data Processor in relation to the Personal Data processing set out in paragraph 4;
- b) To the extent that the Council and the Supplier are joint Data Controllers in relation to the processing of any Personal Data they will in good faith agree and sign an Information Sharing Agreement or agree another arrangement which complies with Article 26 GDPR.

5.2 Without prejudice to the generality of paragraph 1 above, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this Agreement the Supplier shall:

- a) process that Personal Data only on the written instructions of the Council and only insofar as is necessary for the performance of this Agreement unless the Supplier is otherwise required by law;
- b) ensure that it has in place appropriate technical and organisational measures to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data.
- c) ensure that all personnel who have access to and/or process Personal Data are legally obliged to keep the Personal Data confidential;
- d) not disclose or transfer any Personal Data to any third party without the express written consent and instruction of the Council;
- e) notify the Council within 48 hours of any request from a Data Subject and assist the Council in responding to any request from a Data Subject;
- f) comply with the Data Protection Legislation with respect to security, Personal Data Breach notifications, data protection impact assessments and consultations with supervisory authorities or regulators;
- g) co-operate with the Council in relation to any Data Protection Impact Assessment carried out by, at the direction of and/or in conjunction with the Council;
- h) notify the Council within 24 hours on becoming aware of a Personal Data Breach of any kind and assist the Council in responding promptly including any notification to and communication with the affected Data Subject(s) and the ICO;
- i) maintain complete and accurate records and information to demonstrate its compliance with this clause;
- j) submit to audits and inspections by the Council and its authorised agents;

- k) provide the Council with whatever information the Council reasonably needs to ensure that the Council and the Supplier are meeting their respective Data Protection Legislation obligations;
- l) inform the Council immediately if the Supplier is asked to do anything which would infringe the Data Protection Legislation;
- m) employ a Data Protection Officer where required and keep the Council informed from time to time of the identity of the currently appointed Data Protection Officer;
- n) not transfer any Personal Data outside of the European Economic Area.
- o) not appoint any Sub-Processor of Personal Data under this Agreement unless the prior written consent of the Council has been obtained (which consent the Council may in its absolute discretion grant or refuse) and the following conditions are fulfilled:
 - (i) The Supplier notifies the Council of the identity of the Sub-Processor and confirms that the Supplier has entered into or (as the case may be) will enter into with the Sub-Processor a written agreement incorporating terms which are substantially similar to those set out in this clause;
 - (ii) The Sub-Processor has and at all times shall maintain sufficient commercial, technical and organisational capacity fully to discharge all its obligations under the said written agreement with the Supplier and under the Data Protection Legislation.
- p) return all Personal Data and copies thereof to the Council, or delete the same as the Council may direct, on termination of this Agreement howsoever caused except where retention of such Personal Data is required for a statutory retention period.

5.3 The Supplier shall indemnify the Council against all actions, claims, demands, proceedings, damages, liabilities, costs, charges and expenses whatsoever incurred by the Council or for which the Council may become liable due to any breach of this clause or of the Data Protection Legislation by the Supplier or by any Sub-Processor appointed by the Supplier.

5.4 For the purposes of this Agreement and the Data Protection Legislation:

- a) The categories of Data Subjects are limited to those natural persons whose Personal Data it is necessary to process for the proper performance of the applicable Service Agreement, including any Specification;
- b) The type of Personal Data is limited to the type of Personal Data which it is necessary to process for the proper performance of the applicable Service Agreement, including any Specification;
- c) The subject matter of the processing of Personal Data is the provision of the specific Supplier works, services and/or goods under the applicable Service Agreement, including any Specification;
- d) The nature of the processing of Personal Data means any operation such as collection, recording, organisation, structuring, storage, adaptation, alteration, retrieval, consultation, alignment, combination or use, whether or not by automated means;

- e) The purpose of the processing of Personal Data is limited to enabling the Supplier to perform its specific contractual obligations under the applicable Service Agreement, including any Specification;
- f) The duration of the processing of Personal Data is limited to the life of the applicable Service Agreement, including any extension, and copies of Personal Data retained for the minimum period required under statute for audit and compliance purposes.

Royal Borough of Greenwich managed by GS Plus, GS Plus Limited Self-Billing Agreement

This Self-Billing Agreement made as of **31st October 2019** (“Effective Date”)

BETWEEN

(1) Royal Borough of Greenwich managed by GS Plus, Greenwich Services Plus Limited, Birchmere Depot, Eastern Way, London, SE28 8BF (the “Council”)

and

(2) Insert Supplier Name (Insert Company Number) of Insert Company Address (the “Supplier”)

(Each a “Party”, together the “Parties”)

WHEREAS:

- (A) The Council and the Supplier have entered into agreement(s) which govern the relationship between the Parties. The Council and the Supplier have entered or will enter into Service Agreements at various times for the Services.
- (B) The Council and the Supplier have agreed to use a self-billing procedure for all transactions (the “Relevant Transactions”) in respect of the Services;
- (C) The Council and the Supplier shall adhere to the conditions imposed by HM Revenue and Customs in respect of self-billing invoices, as may be amended from time to time;
- (D) The Council and the Supplier agree that this Self-Billing Agreement shall be incorporated into the terms and conditions of each of the Supplier Agreements.

Definitions:

“**Agreement**” means the agreement between the Council and the Supplier for the provision of Services as set out in SProc.Net

All terms defined within the Supplier Agreement shall have the same meaning when used within this Self-Billing Agreement.

It is agreed as follows:

1. The Supplier hereby agrees:
 - i. to accept electronically delivered Self-Bill Invoices raised on its behalf by the Council in respect of all Relevant Transactions;
 - ii. not to issue VAT invoices in respect of the Services;
 - iii. where for internal compliance reasons it raises dummy invoices, the Supplier will reconcile such dummy invoices to the Self-Bill Invoice.
 - iv. to reconcile their account with any factoring company as may be applicable from time to time.
 - v. to only submit paper-copy Service Receipts where pre-agreed in writing with the Council;
 - vi. subject to (v) above, to ensure the Technology's Service Receipt submission system is used to capture all hours worked in respect of the Services;
 - vii. to ensure that rates, hours, hours types and expenses are verified prior to submission or on-line entry of Service Receipts;
 - viii. to raise any discrepancies between a Self-Billing Invoice received from the Council and invoicing data in its internal records within seven (7) days of receipt of such Self-Bill Invoice;
 - ix. to notify the Council immediately if the Supplier changes its VAT registration number, ceases to be VAT registered or sells or otherwise disposes of all or part of its business;
 - x. to respond to any request for confirmation of its VAT registration details within seven (7) days of receipt of the request.
2. The Supplier agrees and acknowledges that where there is any breach whatsoever of Clause 1 above, the Council may at its sole discretion delay or not process payment of the sums due to the Supplier from such Self-Bill Invoices that the breach pertains to.
3. The Council agrees:
 - i. wherever reasonably possible, to provide a valid Self-Billing VAT invoice to the Supplier on a regular (e.g. weekly or monthly) basis;
 - ii. to include on each invoice the Supplier's name, address and VAT registration number, invoice total and details of applicable VAT at the prevailing rate;
 - iii. to inform the Supplier of any relevant changes to the Council's VAT registration status, and enter into a new Self-Billing agreement should this be necessary;
4. The Council will not accept any liability for payment of any of the Supplier's services where the Supplier does not hold a valid signed/approved Service Receipt, as applicable, or where the Service Receipt has not been authorised via the Technology's online Service Receipt system, SProc.Net, or such other application as directed by the Council from time to time.
5. For the avoidance of doubt, any payment properly due to the Supplier will be made in accordance with the terms and conditions of the Agreement between the Parties.
6. The Parties shall, without limitation to the foregoing, comply at all times with all conditions imposed by HM Revenue & Customs in respect of Self-Bill invoicing processes.
7. The Supplier acknowledges and accepts that the Self-Bill process and payments made under this Self-Billing Agreement shall be performed via the Technology Provider acting as the Council's third-party, payment service provider, (adam HTT Limited (trading as *adam* limited registered company number: 07718565) or such other body as may be appointed by the Council from time to time, and payment shall be dependent upon the Technology Provider receiving cleared funds from the Council. For the avoidance of doubt, this arrangement shall not be construed as transferring to the payment service provider any debt that is owed by the Council to the Supplier, and any disputes regarding the Relevant Transactions must be managed between the Supplier and the Council directly.

8. For the avoidance of doubt, this Self-Billing process shall be co-terminous with the duration of the Supplier Agreement but shall be subject to annual review by the parties.
9. This Self-Billing Agreement shall be read in accordance with the laws of England and Wales and shall be subject to the exclusive jurisdiction of the English courts.

All charges for services provided under this Self-Billing Agreement will be subject to VAT at the prevailing rate.

VAT Details:

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| Tick box if not VAT registered | | | | | | | | | | | | <input type="checkbox"/> |

Bank Details:

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| Bank Name: | | | | | | | | | | | | |
| Account Name: | | | | | | | | | | | | |
| Sort Code: | | | - | | | - | | | | | | |
| Account Number: | | | | | - | | | | | | | |

Supplier's Finance Contact Details:

| | | | | | | | | | | | | |
|---|-----------------|--|--|--|--|--|--|--|--|--|--|--|
| Name: | | | | | | | | | | | | |
| Telephone Number: | | | | | | | | | | | | |
| Email Address for invoices to be sent to: | «Email_Address» | | | | | | | | | | | |
| Invoicing Street Address: | | | | | | | | | | | | |

**Agreed and accepted for and on behalf of Royal Borough of Greenwich managed
by Greenwich Services Plus Ltd by:**



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|-----------|--|
| Name: | Grant Williams |
| Position: | Senior Head of Passenger Transport Services – Greenwich Services Plus Ltd. |
| Date: | 31 st October 2019 |

Agreed and accepted for and on behalf of the Supplier by:

(Insert digital or written signature here:)

| | |
|-----------|--|
| Name: | |
| Position: | |
| Date: | |

