

LONDON BOROUGH OF REDBRIDGE

**TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES
TO THE LONDON BOROUGH OF REDBRIDGE**

NB: Set out below are the Terms and Conditions which the London Borough of Redbridge shall deem applicable to any Purchase Order placed by the London Borough of Redbridge for the supply of services.

These Terms and Conditions shall apply to the supply to the London Borough of Redbridge of any services as if the terms were expressly included in the Purchase Order and signed by all parties. As such, all suppliers on acceptance of a Purchase Order shall be deemed to have accepted all of these Terms and Conditions and the Terms and Conditions shall thereafter be enforceable by the London Borough of Redbridge. For the avoidance of doubt, in the event of any conflict between these Terms and Conditions and any Terms expressly included in a Purchase Order, the Terms of the Purchase Order shall prevail.

**TERMS AND CONDITIONS FOR THE SUPPLY OF SERVICES
TO THE LONDON BOROUGH OF REDBRIDGE**

WHEREAS:

- (A) The London Borough of Redbridge of Town Hall, 128 – 142 High Road, Ilford, Essex, IG1 1DD (“the Authority”) requires the Supplier to provide certain Services pursuant to a Purchase Order placed by the Authority in accordance with the terms of this Contract;
- (B) The Supplier agrees to undertake to supply the Services detailed in the Purchase Order in accordance with the terms of this Contract in consideration of which the Authority shall pay the Supplier in accordance with the terms of this Contract.

NOW IT IS AGREED between the Authority and the Supplier as follows: -

1 DEFINITIONS AND INTERPRETATION

- 1.1 In this Contract, except where the context otherwise requires, the following expressions shall have the meanings hereby ascribed to them:
 - 1.1.1 “Acceptance Criteria” means any criteria with which any Deliverables must comply as set out in the Purchase Order or the Specification or evidenced by written agreement between the parties;
 - 1.1.2 “Annex” means any of the following annexes (if used): Annex 1- Special Conditions of Contract; Annex 2 – Specification;
 - 1.1.3 “Applicable Law” means the laws of England and Wales and the European Union and any other laws, statutes or regulations, regulatory policies, orders or other instruments of law or guidelines or industry codes which apply to the provision of the Services and the Supplier more generally from time to time;
 - 1.1.4 “Authority Materials” shall have the meaning given in Sub-Clause 4.1.4 (Supplier’s General Undertakings);
 - 1.1.5 “Authority Representative” means any individual named as such in the Purchase Order or such person or persons as notified to the Supplier by the Authority in writing from time to time;
 - 1.1.6 “Best Value Duty” means the duty on local authorities to provide best value and to provide services efficiently, effectively and economically and to strive for constant improvement of all services as set out in the Local Government Act 1999 and the Local Government Act 2000 and any similar duty;
 - 1.1.7 “Charges” means the charges for the Services referred to in Clause 13 (Charges and Payment) and set out in the Purchase Order;
 - 1.1.8 “Codes of Practice” means the Codes of Practice on the Discharge of Public Authorities’ Functions and on the Management of Records issued pursuant to sections 45 and 46 of the FOIA and any similar or subsequent codes or guidance issued in relation to the Authority’s FOIA obligations, as amended, updated and replaced from time to time;

- 1.1.9 "Conditions" means these Terms and Conditions, including any Annexes, which form part of the Contract;
- 1.1.10 "Confidential Information" means all information of a confidential nature (however recorded or preserved) disclosed or made available, directly or indirectly, by the Authority or its Representatives to the Supplier or its Representatives, including any information which is marked confidential or private and any information relating to the Authority's members, customers, clients, suppliers, business, strategy, plans, intentions, market opportunities, operations, processes or Intellectual Property;
- 1.1.11 "Contract" means the contract between the Authority and the Supplier for the provision of the Services comprising the Purchase Order and these Conditions (including any Annexes).
- 1.1.12 "Controller" shall have the same meaning as in the Data Protection Legislation;
- 1.1.13 "Data Loss Event" means any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
- 1.1.14 "Data Protection Legislation" means (i) the GDPR, the LED and any applicable national implementing Laws as amended from time to time (ii) the DPA 2018 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;
- 1.1.15 "Data Protection Impact Assessment" means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
- 1.1.16 "Data Protection Officer" shall have the same meaning as in the Data Protection Legislation;
- 1.1.17 "Data Subject" shall have the same meaning as in the Data Protection Legislation;
- 1.1.18 "Data Subject Request" means 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;
- 1.1.19 "Day" means any calendar day;
- 1.1.20 "Deliverables" means all products of the Services (whether tangible or not), including Documents and data (and drafts of either) and the media on which they are recorded;
- 1.1.21 "Delivery Location" means the address specified by the Authority in the Purchase Order where the Services are to be performed;
- 1.1.22 "Document" means includes any document in hard or electronic copy.
- 1.1.23 "DPA 2018" means Data Protection Act 2018;

- 1.1.24 "EIR" means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;
- 1.1.25 "FOIA" means the Freedom of Information Act 2000 and any subordinate legislation made under the 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;
- 1.1.26 "GDPR" means the General Data Protection Regulation (Regulation (EU) 2016/679);
- 1.1.27 "Information" has the meaning given under section 84 of FOIA;
- 1.1.28 "Intellectual Property Rights" means all intellectual property rights, whether registered or unregistered and including all applications for and renewals or extensions of such rights, and all similar or equivalent rights or forms of protection in any part of the world including all patents, rights to inventions, utility models, copyright and related rights, trade marks, service marks, trade, business and domain names, rights in trade dress or get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets);
- 1.1.29 "Joint Controllers" means circumstances where two (2) or more Controllers jointly determine the purposes and means of processing as may be referred to in the Schedule and as set out in the Joint Controller Schedule;
- 1.30 "Joint Controller Schedule" means the Schedule set out at Annex A containing each party's responsibilities (if any) when acting as a Joint Controller;
- 1.31 "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, judgement of a relevant court of law, or directives or requirements with which the Supplier is bound to comply;
- 1.1.32 "LED" means the Law Enforcement Directive (*Directive (EU) 2016/680*);
- 1.1.33 "Personal Data" shall have the same meaning as in the Data Protection Legislation;
- 1.1.34 "Personal Data Breach" shall have the same meaning as in the Data Protection Legislation;
- 1.1.35 "Price" means the total price of the Goods provided pursuant to the Purchase Order, including delivery and any associated costs but excluding Value Added Tax ("VAT"), as was set out in the Supplier's Quotation for the Goods and as accepted by the Authority;
- 1.1.36 "Processor" shall have the same meaning as in the Data Protection Legislation;
- 1.1.37 "Protective Measures" means appropriate technical and organisational measures which may include but not be limited to: 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 including those outlined in the Schedule;

- 1.1.38 "Public Body" means any part of the government of the United Kingdom including but not limited to the Northern Ireland Assembly and Executive Committee, the Scottish Executive and the National Assembly for Wales, local authorities, government ministers and government departments and government agencies and any other body or organisation formally designated as a "public body";
- 1.1.39 "Purchase Order" means the written order from the Authority for Services incorporating or attached to these Conditions;
- 1.1.40 "Premises" means any premises owned, leased to, controlled or occupied by the Authority or its Representatives which are made available for use by the Supplier or its Representatives for the delivery or performance of the Services;
- 1.1.41 "Representatives" means employees, officers, agents, advisors, sub-contractors, suppliers or other representatives;
- 1.1.42 "Request for Information" means a request for Information or an apparent request under the Code of Practice on Access to Government Information, FOIA or EIR.
- 1.1.43 "Services" means the services provided or to be provided by the Supplier under the Contract as set out in the Purchase Order and/or Specification including the Deliverables;
- 1.1.44 "Specification" means any description of the Services (including any Deliverables to be produced) set out in Annex 2 or as provided to the Supplier at any time during the Contract;
- 1.1.45 "Statutory Minimum Wage" means the minimum pay per hour a worker is entitled to in order for the Supplier to comply with Applicable Law during the Contract Period, and which Statutory Minimum Wage shall, as a minimum, be paid by the Provider at all times to those persons providing the Services;
- 1.1.46 "Sub-processor" means any third party appointed to process Personal Data on behalf of the Supplier under this Contract;
- 1.1.47 "Supplier" means the person, organisation, firm or company to whom the Purchase Order is addressed;
- 1.1.48 "Supplier Personnel" "Processor Personnel" means all directors, officers, employees, agents, consultants and contractors of the Supplier / Processor and/or of any Sub-Contractor engaged in the performance of its obligations under this Contract;
- 1.1.49 "Transfer Regulations" means Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) and any successor legislation;
- 1.1.50 "Variation" shall have the meaning given in Sub-Clause 5.1 (Variation of the Services);

1.1.51 "Working Day" means any day Monday to Friday, excluding Public Holidays, between the hours of 9:00 am and 5:00 pm save that these shall not necessarily be the hours during which the Services shall be provided and the Services shall be provided during such hours as stated in the Purchase Order or the Specification or as otherwise notified to the Supplier.

1.2 In these Conditions, the following rules of interpretation shall apply:

1.2.1 a person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality);

1.2.2 a reference to a party includes its successors or permitted assigns;

1.2.3 a reference to any gender includes reference to any other gender and reference to any word in the singular shall (where appropriate) include the plural and vice versa;

1.2.4 a reference to a statute or statutory provision is a reference to such statute or statutory provision as amended or re-enacted;

1.2.5 any phrase introduced by the terms "including", "include", "in particular" or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms; and

1.2.6 a reference to "writing" or "written" includes e-mails save for in respect of the service of Notices as referred to in Clause 31 (Notice) which shall only be by letter.

1.3 In the event of any inconsistency or conflict between any Purchase Order and these Conditions, the terms of the Purchase Order shall prevail.

1.4 In the event of any inconsistency or conflict between any Annex and these Conditions, the Annex shall prevail.

1.5 The headings contained in these Conditions are for convenience only and do not affect the construction or interpretation of the Conditions.

2 FORMATION OF CONTRACT

2.1 The Contract shall come into existence and take effect on the Authority's issue of a Purchase Order for the Services and shall remain in full force and effect until either:

2.1.1 the parties have discharged all of their obligations under it (at which point it shall expire); or

2.1.2 it is terminated in accordance with these Conditions.

2.2 These Conditions apply to the supply of the Services to the exclusion of any other terms that the Supplier may seek to impose or incorporate (including any standard trading terms of the Supplier), or which are implied by trade, custom, practice or course of dealing.

2.3 No deletion from, addition to, or variation of these Conditions or any other part of the Contract shall be valid or of any effect unless agreed in writing and signed by the parties.

3 SUPPLIER'S WARRANTIES

- 3.1 The Supplier shall provide the Services specified in the Purchaser Order and/or the Specification in accordance with these Conditions.
- 3.2 The Supplier warrants that:
 - 3.2.1 it will meet any dates set out in the Purchase Order or Specification for the delivery of the Deliverables or the performance of the Services or (where no dates are so specified) then the Supplier shall perform the Services (and deliver any Deliverables) within a reasonable time;
 - 3.2.2 the design, construction and quality of Deliverables and the method and quality of performance of the Services will comply in all respects with all Applicable Law which may be in force at the time when the same are provided;
 - 3.2.3 it has and will maintain all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract;
 - 3.2.4 it will not do or omit to do anything which may cause the Authority to lose any licence, consent or permission upon which it relies for the purposes of conducting its business or affairs or which may cause the Authority to breach any Applicable Law;
 - 3.2.5 its Representatives will behave in a polite and courteous manner at all times when on the Premises;
 - 3.2.6 the Services will conform as to their quantity, quality and description with the Purchase Order or Specification, including with all Acceptance Criteria;
 - 3.2.7 the Services will be fit for any purpose and meet any standard or performance levels set out in the Purchase Order or Specification or which can reasonably be expected for Services of the type in question;
 - 3.2.8 the Services will conform to any literature or description supplied by the Supplier to the Authority prior to the issue of the Purchase Order;
 - 3.2.9 it will perform the Services with all reasonable care, skill and diligence and in accordance with best practice in the Supplier's industry, profession or trade;
 - 3.2.10 it will use personnel to provide the Services who are suitably skilled and experienced, and in sufficient numbers to ensure that it fulfils all of its obligations in accordance with the Contract and Applicable Law;
 - 3.2.11 it will use the best quality goods, tools, materials, standards and techniques in performing the Services, including but not limited to in relation to any Deliverables;
 - 3.2.12 its Representatives will comply with all of the Authority's policies and procedures, signs, notices and other instructions either displayed at the Premises or notified to the Supplier (or its Representatives) from time to time and relating to the use of the Premises or any part of them or any equipment or facilities at the Premises;

3.2.13 (without prejudice to the generality of the foregoing warranties) to the extent that Deliverables are in physical or tangible form, they will:

- (a) be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for purpose;
- (b) be of sound materials and workmanship;
- (c) be free from defects in design, materials and workmanship; and
- (d) be equal in all respects to the examples, samples, patterns or specifications provided or given by the Authority.

4 SUPPLIER'S GENERAL UNDERTAKINGS

4.1 The Supplier undertakes to:

- 4.1.1 provide at its expense and risk all equipment, tools, materials, machines and vehicles and such other items as are required to provide the Services;
- 4.1.2 co-operate with the Authority and any Representative nominated by the Authority in all matters relating to the Contract;
- 4.1.3 comply with all reasonable instructions of the Authority;
- 4.1.4 hold all materials, equipment and tools, drawings, specifications and data supplied by the Authority to the Supplier ("Authority Materials") in safe custody at its own risk, maintain the Authority Materials in good condition until returned to the Authority, and not dispose of or use the Authority Materials other than in accordance with the Authority's written instructions or authorisation;
- 4.1.5 promptly remove from the Premises any rubbish generated and any of its equipment, tools, materials, machines and vehicles and any other items used in connection with the performance of the Services and leave the Premises in a clean and tidy condition, failing which the Authority may dispose of them and make good the Premises at the expense of the Supplier;
- 4.1.6 use all reasonable endeavours to transfer to the Authority the benefit of any warranty or guarantee given by the manufacturer of any goods contained in the Deliverables of which the Supplier is not the manufacturer;
- 4.1.7 notify the Authority as soon as practicable of any health and safety or other hazards at the Premises of which it becomes aware;
- 4.1.8 comply with the International Financial Reporting Standard [for Small and Medium-sized Enterprises (SMEs)] and any other International Financial Reporting Standard that it is required to comply with by Applicable Law; and
- 4.1.9 Comply with all Applicable Law in relation to the performance of the Contract and as applicable to the Supplier more generally.

5 VARIATION OF THE SERVICES

- 5.1 The Authority reserves the right on giving written notice to the Supplier from time to time to require changes to the Services (including but not limited to by way of the removal of Services, the addition of new Services, or increasing or decreasing the Services or specifying the order in which the Services are to be performed or the locations where the Services are to be provided) for any reason whatsoever providing that such changes to the Services do not result in the Services required being substantially different from those for which the Authority originally issued a Purchase Order. Such a change is hereinafter called a "Variation".
- 5.2 In the event of a Variation the Charges may also be varied. Such variation in the Charges shall be calculated by the Authority and agreed in writing with the Supplier and shall be such amount as properly and fairly reflects the nature and extent of the Variation in all the circumstances.
- 5.3 The Supplier shall provide such information as may be reasonably required to enable such variation to the Charges applicable to the Variation to be calculated.

6 SUPPLIER'S PERSONNEL

- 6.1 The Supplier shall ensure that it and any of its Representatives engaged in the performance of the Services shall:
- 6.1.1 be trained in and shall observe all health and safety requirements as applicable to the tasks being performed in the provision of the Services;
 - 6.1.2 complete all necessary risk assessments and observe the outcome of the same;
 - 6.1.3 not act in a manner which places themselves, a third party or any property at risk of damage or harm.
- 6.2 The Supplier shall on request provide the Authority with evidence of compliance with the requirements of Sub-Clause 6.1 above.
- 6.3 The Supplier shall ensure that, as a minimum, it pays all employees engaged pursuant to the Contract the Statutory Minimum Wage as applicable to that employee.
- 6.4 The Supplier shall ensure that every person engaged in the performance of the Services works strictly in accordance with the EU's Working Time Directive (No.2003/88/EC), the Working Time Regulations 1998 and any subsequent Directives, Regulations, Statutes or Acts relating to working time.
- 6.5 The Supplier shall ensure that every person engaged in the performance of the Services is legally entitled to remain and work in the United Kingdom and shall not permit any person not so entitled to continue to work. The Supplier shall take such actions in respect of such person not legally entitled to remain or work in the United Kingdom as appropriate.
- 6.6 The Supplier shall at all times comply with the requirements of the Health and Safety at Work etc. Act 1974 and of any other acts, regulations, orders or other statutory provisions relating to the health and safety of employees including any acts, regulations, orders or other statutory provisions which may come into force at any time in the future.

- 6.7 The Authority reserves the right:
- 6.7.1 to refuse to admit to the Premises and to require the Supplier to replace with another suitably qualified person any Representative of the Supplier whose admission would in the reasonable opinion of the Authority be undesirable; and
 - 6.7.2 to request the replacement of any Representative of the Supplier who in the Authority's reasonable opinion is not suitably qualified or experienced to perform the Services.
- 6.8 Where any Representative of the Supplier is named on the Purchase Order or in the Specification as fulfilling a specific role in connection with the performance of the Services, the Supplier shall use all reasonable endeavours to ensure that the named Representative continues to fulfil the specified role and will not replace him or her without the Authority's written consent, such consent not to be unreasonably withheld.
- 6.9 If reasonably so requested by the Authority and subject to compliance by both parties with Data Protection Law, the Supplier shall promptly provide a list of the names and addresses of all persons who may at any time require admission to the Premises in connection with the performance of the Services, specifying the role in which each such person is concerned with the Supplier and giving such other particulars as the Authority may require.

7 TESTING AND ACCEPTANCE OF DELIVERABLES

- 7.1 All Deliverables shall meet any relevant Acceptance Criteria.
- 7.2 The Authority may test Deliverables at any time during the period of fifteen (15) Working Days following notification by the Supplier of completion of the Services (or relevant part of the Services) and production at the Premises of the Deliverables.
- 7.3 If any Deliverables fail to meet their Acceptance Criteria the Authority will notify the Supplier accordingly, specifying the non-conformity.
- 7.4 Where Deliverables fail to meet the Acceptance Criteria the Authority will request the Supplier to remedy the non-compliance at its own expense within fifteen (15) Working Days of the Authority's notification under Sub-Clause 7.3 above, following which the Authority shall have a further fifteen (15) Working Days in which to re-test the Deliverables for conformity with the Acceptance Criteria.
- 7.5 If any Deliverables fail to meet the Acceptance Criteria on re-testing under Sub-Clause 7.4 above, the Authority may reject them and exercise its rights under Clause 9 (The Authority's Remedies).

8 RISK AND TITLE

- 8.1 Risk in Deliverables shall pass to the Authority on acceptance under Clause 7 (Testing and Acceptance of Deliverables).
- 8.2 Title to Deliverables shall pass to the Authority on acceptance under Clause 7 (Testing and Acceptance of Deliverables).

9 THE AUTHORITY'S REMEDIES

9.1 If:

9.1.1 the Supplier fails to perform the Services by the date required under these Conditions; or

9.1.2 the Supplier fails to comply with its warranties set out in Clause 3 (Supplier's Warranties); or

9.1.3 Sub-Clause 7.5 (Testing and Acceptance of Deliverables) applies;

the Authority may exercise any of the rights set out in Sub-Clause 9.2 below.

9.2 The rights referred to in Sub-Clause 9.1 above are:

9.2.1 to refuse to accept any subsequent performance of the Services which the Supplier attempts to make;

9.2.2 to refuse to accept any delivery of Deliverables which the Supplier attempts to make;

9.2.3 to reject any Deliverables (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

9.2.4 to recover from the Supplier any costs incurred by the Authority in having a third party provide substitute Services or in performing the Services itself;

9.2.5 where the Authority has paid in advance for Services that have not been performed by the Supplier, to have such sums refunded by the Supplier immediately;

9.2.6 to claim damages for any additional costs, loss or expenses incurred by the Authority (including but not limited to the time spent by the Authority or its Representatives in dealing with the issue) which are attributable to the Supplier's failures set out in Sub-Clause 9.1 above;

9.2.7 to terminate the Contract with immediate effect by giving written notice to the Supplier.

9.3 The rights set out in Sub-Clause 9.2 above are cumulative and the exercise by the Authority of any one of them shall not preclude it from exercising any other.

9.4 The Authority's rights under this Clause 9 (The Authority's Remedies) are in addition to its rights and remedies implied by statute and at common law.

10 THE AUTHORITY'S OBLIGATIONS

10.1 The Authority will:

10.1.1 where appropriate, provide the Supplier with reasonable access to the Premises at reasonable times during Working Days for the purpose of providing the Services or delivering the Deliverables;

10.1.2 where appropriate, provide reasonable access to facilities on the Premises; and

10.1.3 provide such information as the Supplier may reasonably request in connection with the provision of the Services provided that the Authority (acting reasonably) considers such information necessary for the purpose of providing the Services.

11 TRANSFER REGULATIONS

11.1 The parties do not intend that the Transfer Regulations will apply on commencement, during or on termination of the arrangements under the Contract.

11.2 To the extent that the Transfer Regulations apply, the parties shall comply with their respective obligations imposed by the Transfer Regulations and each shall indemnify the other from and against all losses, costs, claims, demands, actions, fines, penalties, awards, liabilities and expenses (including legal expenses on an indemnity basis) that it may suffer in connection with or as a result of any claim, action or demand by any person or their representative arising out of any breach of its obligations under the Transfer Regulations.

12 LIABILITY

12.1 In this Clause 12 (Liability), a reference to the Authority's liability for something is a reference to any liability whatsoever which the Authority might have for it, its consequences, and any direct, indirect or consequential loss, damage, costs or expenses resulting from it or its consequences, whether the liability arises under the Contract, in tort or otherwise, and even if it results from the Authority's negligence or from negligence for which the Authority would otherwise be liable.

12.2 The Authority is not in breach of the Contract, and does not have any liability for anything, to the extent that its apparent breach or liability is attributable to the Supplier's breach of the Contract.

12.3 Subject to Sub-Clause 12.5 below the Authority shall not have any liability for:

12.3.1 any indirect or consequential loss or damage;

12.3.2 any loss of business, rent, profit or anticipated savings whether direct or indirect unless it has expressly assumed such liability;

12.3.3 any damage to goodwill or reputation;

12.3.4 loss, theft, damage or destruction to any equipment, tools, machinery, vehicles or other equipment brought onto the Premises by the Supplier or its Representatives; or

12.3.5 any loss, damage, costs or expenses suffered or incurred by any third party.

12.4 Subject to Sub-Clause 12.5 below, the Authority's total liability shall be limited to the Charges it has paid or is due to pay to the Supplier under the Contract.

12.5 Nothing in these Conditions restricts the Authority's liability for:

12.5.1 death or personal injury resulting from negligence for which it is responsible; or

12.5.2 its fraud (including fraudulent misrepresentation).

13 CHARGES AND PAYMENT

- 13.1 The Charges for the Services and the date or dates on which they are payable are set out in the Purchase Order or any Annex; and
- 13.1.1 (in the case of Deliverables) shall be inclusive of any costs of packaging, insurance and carriage;
- 13.1.2 (in the case of Services) shall include all costs and expenses of the Supplier and its Representatives directly or indirectly incurred in connection with their performance; and
- 13.1.3 unless otherwise specified shall be inclusive of any amounts in respect of Value Added Tax ("VAT") chargeable from time to time.
- 13.2 Unless otherwise provided in the Purchase Order, the Supplier may invoice the Charges at any time on or after whichever is the later of acceptance of the Deliverables or completion of the Services.
- 13.3 Invoices shall include the Purchase Order number and sufficient supporting information to enable the Authority to identify the Deliverables and Services for which payment is claimed.
- 13.4 Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Authority, the Supplier shall provide a valid VAT invoice.
- 13.5 Where Charges for the Services are based on the cost of time and materials at rates set out in the Purchase Order, the Supplier shall maintain and provide to the Authority complete and accurate records of the time spent and materials used in providing the Services and shall attach such records to the relevant invoice.
- 13.6 Subject to compliance by the Supplier with the foregoing provisions of this Clause 13 (Charges and Payment), the Authority shall pay the Charges as invoiced within thirty (30) Days of receipt of the invoice.
- 13.7 Should the Authority pay the Supplier the Charges as invoiced within fourteen (14) Days of receipt of the invoice the Authority shall be entitled to deduct 2.5% from the Charges stated in the invoice by way of an early payment discount ("the Discount").
- 13.8 The Authority shall not apply the Discount to any Charges due to the Supplier under a properly submitted invoice and not paid to the Supplier within fourteen (14) Days of receipt of the invoice by the Authority.
- 13.9 The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Authority in order to justify withholding payment of any amount in whole or in part. The Authority may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount payable by the Authority to the Supplier.

14 INTELLECTUAL PROPERTY RIGHTS

- 14.1 The Supplier warrants that:
- 14.1.1 the Supplier has all Intellectual Property Rights, permissions, licences and consents necessary to carry out its obligations under the Contract and shall not

carry out its obligations in breach of any Intellectual Property Right permission, licence or consent; and

14.1.2 in respect of the Deliverables, the Supplier has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Authority, it has full and unrestricted rights to transfer full title to all such items to the Authority.

14.2 Unless otherwise provided in the Specification, the Supplier grants to the Authority, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, including all Deliverables.

14.3 The Supplier shall, promptly at the Authority's request, do (or procure to be done) all such further acts and things and execute (or procure the execution of) all such other documents as the Authority may from time to time require for the purpose of securing for the Authority the full benefit of the Contract, including all right, title and interest in and to the Intellectual Property Rights assigned or licensed to the Authority in accordance with the Contract.

14.4 The Authority reserves to itself or its licensors all the Authority Materials and any Intellectual Property Rights in them and the Contract shall not operate to vest in the Supplier any rights in the Authority Materials other than a licence, for the duration of the Contract, to use them to the extent necessary to enable the Supplier to carry out its obligations under the Contract.

15 INDEMNITY

15.1 The Supplier shall indemnify, and shall keep indemnified, the Authority in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses, awarded against or incurred or paid by the Authority as a result of or in connection with:

15.1.1 any claim made against the Authority for death, personal injury or damage to property arising out of, or in connection with, any non-compliance of the Deliverables or Services with the Contract;

15.1.2 any claim made against the Authority arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier;

15.1.3 any claim made against the Authority arising out of, or in connection with, the negligence of the Supplier or its Representatives whilst on, entering, or leaving the Premises;

15.1.4 any claim made against the Authority for infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the Authority's use of the Services;

15.1.5 all damage to the Authority's property or the Premises caused by the Supplier or its Representatives (including any damage or destruction to, corruption of, or loss of data held by the Authority);

15.1.6 any breach of Data Protection Law by the Supplier or its Representatives; and

15.1.7 any claim made against the Authority by a third party resulting from, or arising out of any breach by the Supplier of its obligations under Clause 14 (Intellectual Property Rights) or Clause 17 (Confidentiality).

15.2 The Supplier shall not be liable to the Authority for any losses, damage or injury to the extent that they are caused by or arise directly out of an act or omission of, or negligence attributable to, the Authority in breach of its obligations under the Contract.

16 INSURANCE

16.1 For the duration of the Contract and for a period of six (6) years thereafter, the Supplier shall maintain in force, with a reputable UK based insurance company, insurance to provide a level of cover sufficient for all risks which may be incurred by the Supplier under the Contract, including death or personal injury, or loss of or damage to property.

16.2 The insurance required under Sub-Clause 16.1 above shall include, as a minimum:

16.2.1 employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) per claim;

16.2.2 public liability insurance with a limit of indemnity of not less than ten million pounds (£10,000,000) per claim;

16.2.3 if applicable, professional indemnity insurance with a limit of not less than two million pounds (£2,000,000) per claim; and

16.2.4 product liability insurance with a limit of not less than two million pounds (£2,000,000) per claim.

16.3 The Supplier shall, at the request of the Authority, produce to the Authority a valid certificate of insurance and such other written documentation as is necessary to demonstrate that the Supplier has complied with its obligations under this Clause 16 (Insurance).

16.4 The Supplier shall not do or permit anything, or make any omission, which might cause any insurance to be voided.

16.5 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities incurred in connection with the Contract.

16.6 The Supplier shall inform the Authority in writing whenever there is any change to the insurance referred to in this Clause 16 (Insurance) (including any change in the scope or level of cover or the identity of the insurer).

17 CONFIDENTIALITY

17.1 Subject to Sub-Clause 17.2 below, the Supplier shall not acquire any rights of ownership or use in any Confidential Information originating from or provided by the Authority.

17.2 The Supplier undertakes:

17.2.1 to restrict disclosure of Confidential Information to such of its Representatives as need to know it for the purpose of discharging the Supplier's obligations under the Contract, and shall ensure that all such Representatives are subject to

obligations of confidentiality corresponding to those set out in this Clause 17 (Confidentiality);

17.2.2 that the Supplier and its Representatives shall use Confidential Information only for the purposes of performing their respective obligations under the Contract;

17.2.3 that any person employed or engaged by the Supplier in connection with the Contract shall not, in the course of such employment or engagement, disclose any Confidential Information to any third party without the prior written consent of the Authority;

17.2.4 to take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (save as aforesaid) or used other than as permitted by this Clause 17 (Confidentiality); and

17.2.5 that, without prejudice to the generality of the foregoing, neither the Supplier nor any of its Representatives shall use the Confidential Information for the solicitation of business from the other or from any third party.

17.3 The provisions of this Clause 17 (Confidentiality) shall not apply to any information which:

17.3.1 is or becomes public other than by breach of this Clause 17 (Confidentiality); or

17.3.2 is in the possession of the Supplier without restriction on disclosure before the date of receipt from the disclosing person; or

17.3.3 is independently developed by the Supplier without access to the Confidential Information; or

17.3.4 must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or EIR.

18 TERMINATION

18.1 Without limiting its other rights or remedies, the Authority may terminate this Contract with immediate effect by giving written notice to the Supplier if:

18.1.1 the circumstances set out in Sub-Clause 9.2.7 (The Authority's Remedies) or Sub-Clause 23.1 (Corruption) or Clause 32 (Severance) apply;

18.1.2 the Supplier commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within ten (10) Working Days of receipt of written notice of the breach;

18.1.3 the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

- 18.1.4 the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors other than (where a company) for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- 18.1.5 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- 18.1.6 the Supplier (being an individual) is the subject of a bankruptcy petition order;
- 18.1.7 a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) Days;
- 18.1.8 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- 18.1.9 a floating charge holder over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 18.1.10a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- 18.1.11 the Supplier becomes the subject of administration or an administration order (in each case whether or not the out of court procedure is used);
- 18.1.12any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in Sub-Clause 18.1.3 to Sub-Clause 18.1.11 (inclusive) above;
- 18.1.13the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- 18.1.14the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 18.2 Without limiting its other rights or remedies, the Authority may at any time terminate the Contract in whole or in part by giving the Supplier thirty (30) Days written notice, in which case the Authority shall pay the Supplier for any Services performed up until the date of termination, but shall not be liable for any anticipated profits or any other loss in respect of the termination.

19 CONSEQUENCES OF TERMINATION

- 19.1 On expiry or termination of the Contract or any part of it for any reason the following shall apply:

19.1.1 where the Services are terminated, the Supplier shall immediately deliver to the Authority all Deliverables, whether or not then complete, and return all the Authority Materials to the Authority. If the Supplier fails to do so, then the Authority may, without limiting its other rights or remedies, enter the Supplier's premises and take possession of the Deliverables and/or the Authority Materials. Until they have been delivered or returned, the Supplier shall be solely responsible for their safe-keeping and will not use them for any purpose; and

19.1.2 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination.

19.2 The following Clauses shall survive expiry or termination and shall continue in full force and effect: 1 (Interpretation), 2.2 (Formation of Contract), 3 (Supplier's Warranties), 4 (Supplier's General Undertakings), 7 (Testing and Acceptance of Deliverables), 9 (The Authority's Remedies), 11 (Transfer Regulations), 12 (Liability), 13 (Charges and Payment), 14 (Intellectual Property Rights), 15 (Indemnity), 16 (Insurance), 17 (Confidentiality), 19 (Consequences of Termination), 20 (Publicity), 21 (Dispute Resolution), 22 (Conflict of Interest), 23 (Corruption), 24 (Audit), 25 (Discrimination), 26 (Human Rights), 27 (Best Value), **Error! Reference source not found.** (Data Protection), 29 (Freedom of Information), 30 (Transfer of Services), 31 (Notice), 32 (Severance), 33 (Waiver and Accumulation of Remedies), 36 (Law and Jurisdiction), **Error! Reference source not found.** (Exclusion of Third Party Rights), 38 (Whistleblowing Policy), 39 (The Local Involvement Networks (Duty of Service Providers to Allow Entry) Regulations 2008 and any other Clause which expressly or by implication has effect after expiry or termination shall continue in full force and effect.

20 PUBLICITY

20.1 The Supplier shall not make any press announcements or publicise the existence or terms of the Contract without the Authority's prior written consent and shall ensure the observance of the provisions of this Clause 20 (Publicity) by its Representatives.

20.2 The Authority shall be entitled to publicise the Contract or any Purchase Order (or any information concerning either) for any reason without any obligation to give notice to the Supplier.

21 DISPUTE RESOLUTION

21.1 The parties shall attempt, in good faith, to resolve any dispute promptly by negotiation which shall be conducted as follows:

21.1.1 the dispute shall first be referred, on the request of either party, to a senior manager within each of the parties; and

21.1.2 if the dispute cannot be resolved by the parties' senior managers within ten (10) Working Days after it has been referred to them, either party may give notice to the other party in writing referring the matter to mediation to be conducted in accordance with Sub-Clause 21.2 below.

21.2 The following provisions shall apply to any such reference to mediation:

21.2.1 the reference shall be a reference under the Model Mediation Procedure ("MMP") of the Centre of Dispute Resolution ("CEDR") for the time being in force;

21.2.2 both parties shall, immediately on such referral, co-operate fully, promptly and in good faith with CEDR and the mediator and shall do all such acts and sign all such documents as CEDR or the mediator may reasonably require to give effect to such mediation, including an agreement in, or substantially in, the form of CEDR's Model Mediation Agreement for the time being in force; and

21.2.3 to the extent not provided for by such agreement of the MMP, the mediation shall commence by either party serving on the other written notice setting out, in summary form, the issues in dispute and calling on that other party to agree the appointment of a mediator. The mediation shall be conducted by a sole mediator (which shall not exclude the presence of a pupil mediator) agreed between the parties or, in default of agreement, appointed by CEDR.

21.3 If the parties are able to resolve the dispute through mediation under this Clause 21 (Dispute Resolution), the parties' authorised Representatives will document the resolution and sign a memorandum evidencing its terms.

21.4 No party may commence any court proceedings in relation to any dispute arising from this Contract until it has attempted to settle the dispute via mediation pursuant to this Clause 21 (Dispute Resolution) and either the mediation has terminated or the other party has failed to participate in the mediation, provided that the right to issue proceedings is not prejudiced by a delay. For the avoidance of doubt, should mediation fail to result in a resolution of the dispute the parties shall then be permitted to pursue the matter via court proceedings.

21.5 Nothing in this Clause 21 (Dispute Resolution) shall prevent either party from instigating legal proceedings where an order for an injunction, disclosure or legal precedent is required.

21.6 The Supplier shall continue to provide the Services and to perform its obligations under the Contract notwithstanding any dispute or the implementation of the procedures set out in this Clause 21 (Dispute Resolution).

22 CONFLICT OF INTEREST

22.1 The Supplier shall take all appropriate steps to ensure that neither it nor any of its Representatives is placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual, perceived or potential conflict between, on the one hand, the pecuniary or personal interests of the Supplier or its Representatives and, on the other hand, such persons' duties owed to the Authority under the provisions of the Contract.

22.2 The Supplier shall disclose to the Authority full details of any actual or potential conflict of interest in writing and shall comply with any reasonable instructions of the Authority in connection with their resolution.

23 CORRUPTION

23.1 The Supplier undertakes to:

23.1.1 comply with all Applicable Law relating to anti bribery and anti-corruption including, but not limited to, the Bribery Act 2010;

- 23.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
 - 23.1.3 comply with the Authority's anti-corruption policies disclosed to the Supplier from time to time;
 - 23.1.4 ensure that any of its Representatives associated with the supply of the Services comply with this Clause 23 (Corruption); and
 - 23.1.5 immediately notify the Authority if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier.
- 23.2 For the purposes of Sub-Clause 23.1 above, the meaning of "foreign public official" and whether a person is "associated" with another person shall be determined in accordance with sections 6(2), 6(5), 6(6) and 8 of the Bribery Act 2010.
- 23.3 The Authority shall be entitled to terminate the Contract forthwith and to recover from the Supplier the amount of any loss resulting from such termination if the Supplier or a Supplier's Representative:
- 23.3.1 offers or agrees to give any person working for or engaged by the Authority or any other Public Body any favour, gift or other consideration, which could act as an inducement or a reward for any act or failure to act connected to the Contract, or any other agreement between the Supplier and the Authority or any Public Body, including its award to the Supplier and any of the rights and obligations contained within it;
 - 23.3.2 has entered into the Contract if it has knowledge that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Authority or any other Public Body by or for the Supplier, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Authority before the Contract is entered into;
 - 23.3.3 breaches the undertaking set out in Sub-Clause 23.1 above; or
 - 23.3.4 gives any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
- 23.4 For the purposes of Sub-Clause 23.1 above, "loss" shall include, but shall not be limited to:
- 23.4.1 the Authority's costs in finding a replacement Supplier;
 - 23.4.2 direct, indirect and consequential losses;
 - 23.4.3 any loss suffered by the Authority as a result of a delay in its receipt of the Deliverables and / or Services.

24 AUDIT

- 24.1 The Supplier shall keep and maintain until six (6) years after the Contract has come to an end, or for such longer period as may be specified by the Authority in writing from time to time:

24.1.1 all Information relating to the Contract;

24.1.2 full and accurate records of the following:

- (a) the Services provided under the Contract;
- (b) all Charges paid by the Authority; and
- (c) such other information as the Authority specifies in writing from time to time.

24.2 The Supplier shall on request afford the Authority, the Authority's Representatives or the Authority's auditors such access to such information or records (including the information referred to in Sub-Clauses 24.1.1 and 24.1.2 above) as may (in the reasonable opinion of the Authority) be required by the Authority in order to comply with its legal obligations (including its obligations under FOIA and/ or EIR and its obligations in connection with the Best Value Duty).

25 EQUALITY

25.1 The Supplier shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in gender, gender reassignment, religion, race, disability, age, sexual orientation, pregnancy and maternity or otherwise) in the provision of the Services.

25.2 The Supplier shall take all reasonable steps to secure the observance of Sub-Clause 25.1 above by all of its Representatives engaged in the performance of the Contract.

25.3 The Supplier shall:

25.3.1 have appropriately trained staff available to deal with discrimination issues or complaints and monitor the same and the manner of dealing therewith. Such information shall be passed to the Authority on a regular basis as agreed with the Authority; and

25.3.2 actively endeavour to achieve a workforce representative of the ethnic diversity of the area.

25.4 The Supplier shall ensure that for all matters relating to the Contract the Supplier complies with the public sector equality duty contained in Section 149 of the Equality Act 2010 and shall ensure that it does not by any act or omission place the Authority in breach of its obligations under the Equality Act 2010.

26 HUMAN RIGHTS

26.1 The Supplier shall (and shall use its reasonable endeavours to procure that its Representatives shall) at all times comply with the provisions of the Human Rights Act 1998 in the performance of the Contract.

26.2 The Supplier shall undertake, or refrain from undertaking, such acts as the Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998.

27 BEST VALUE

27.1 The Supplier shall:

27.1.1 not do anything which would cause the Authority to be in breach of the Best Value Duty;

27.1.2 act at all times in a manner which is compatible with and corresponds with the Authority's Best Value Duty;

27.1.3 in relation to its obligations in the Contract, make arrangements to secure continuous improvement in the way in which the Services are provided, having regard to a combination of economy, efficiency and effectiveness.

28 DATA PROTECTION

28.1 The parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Supplier is the Processor. The only processing that the Processor is authorised to do is listed in the Schedule by the Authority and may not be determined by the Processor.

28.2 The Processor shall notify the Controller immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.

28.3 The Processor shall provide all reasonable assistance to the Controller in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Controller, include:

28.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;

28.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

28.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

28.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

28.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

28.4.1 process that Personal Data only in accordance with the Schedule, unless the Processor is required to do otherwise by Law. If it is so required the Processor shall promptly notify the Controller before processing the Personal Data unless prohibited by Law;

28.4.2 ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event, which the Controller may reasonably reject (but failure to reject shall not amount to approval by the Controller of their adequacy of the Protective Measures) having taken account of the:

28.4.2.1 nature of the data to be protected;

28.4.2.2 harm that might result from a Data Loss Event;

28.4.2.3 state of technological development; and

28.4.2.4 cost of implementing any measures;

28.4.3 ensure that:

28.4.3.1 the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular the Schedule);

28.4.3.2 it takes all reasonable steps to ensure the reliability and integrity of any Processor Personnel who have access to the Personal Data and ensure that they:

(i) are aware of and comply with the Processor's duties under this Clause 28 (Data Protection);

(ii) are subject to appropriate confidentiality undertakings with the Processor or any Sub-processor;

(iii) 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 Controller or as otherwise permitted by this Contract; and

(iv) have undergone adequate training in the use, care, protection and handling of Personal Data; and

28.4.3.3 not transfer Personal Data outside of the EU unless the prior written consent of the Controller has been obtained and the following conditions are fulfilled:

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

(ii) the Data Subject has enforceable rights and effective legal remedies;

(iii) the Processor 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 Controller in meeting its obligations); and

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

28.4.3.4 at the written direction of the Controller, delete or return Personal Data (and any copies of it) to the Controller on termination of the Contract unless the Processor is required by Law to retain the Personal Data.

- 28.3.5 Subject to Sub-Clause 28.6 below, the Processor shall notify the Controller immediately if it:
- 28.5.1 receives a Data Subject Request (or purported Data Subject Request);
 - 28.5.2 receives a request to rectify, block or erase any Personal Data;
 - 28.5.3 receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation;
 - 28.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
 - 28.5.5 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
 - 28.5.6 becomes aware of a Data Loss Event.
- 28.6 The Processor's obligation to notify under Sub-Clause 28.5 above shall include the provision of further information to the Controller in phases, as details become available.
- 28.7 Taking into account the nature of the processing, the Processor shall provide the Controller with full assistance in relation to either party's obligations under Data Protection Legislation and any complaint, communication or request made under Sub-Clause 28.5 above (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- 28.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 28.7.2 such assistance as is reasonably requested by the Controller to enable the Controller to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
 - 28.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 28.7.4 assistance as requested by the Controller following any Data Loss Event;
 - 28.7.5 assistance as requested by the Controller with respect to any request from the Information Commissioner's Office, or any consultation by the Controller with the Information Commissioner's Office.
- 28.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 28 (Data Protection). This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 28.8.1 the Controller determines that the processing is not occasional;

- 28.8.2 the Controller determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
- 28.8.3 the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 28.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 28.10 Each party shall designate its own data protection officer if required by the Data Protection Legislation.
- 28.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor Supplier must:
 - 28.11.1 notify the Controller in writing of the intended Sub-processor and processing;
 - 28.11.2 obtain the written consent of the Controller;
 - 28.11.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Clause 28 (Data Protection) such that they apply to the Sub-processor; and
 - 28.11.4 provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 28.12 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
- 28.13 The Controller may, at any time on not less than thirty (30) Working Days' notice, revise this Clause 28 (Data Protection) 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 Contract).
- 28.14 The parties agree to take account of any guidance issued by the Information Commissioner's Office. The Controller may on not less than thirty (30) Working Days' notice to the Processor amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Officer.
- 28.15 Where the parties include two (2) or more Joint Controllers as identified in the Schedule in accordance with GDPR Article 26, those parties shall enter into a Joint Controller Agreement based on the terms outlined in Annex A in replacement of Sub-Clauses 28.1 to 28.14 above.

29 FREEDOM OF INFORMATION

- 29.1 The Supplier acknowledges that the Authority is subject to the requirements of FOIA and EIR and shall assist and co-operate with the Authority (at the Supplier's expense) to enable the Authority to comply with its obligations under FOIA and EIR. The Supplier shall act in accordance with the FOIA, the Codes of Practice, the EIR and any other similar codes of practice or guidance from time to time.
- 29.2 The Supplier shall and shall procure that its Representatives shall:

- 29.2.1 transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within two (2) Working Days of receiving a Request for Information;
 - 29.2.2 provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within five (5) Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and
 - 29.2.3 provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in section 10 of FOIA or regulation 5 of EIR.
- 29.3 The Authority shall be responsible for determining (in its absolute discretion) whether any Information:
- 29.3.1 is exempt from disclosure in accordance with the provisions of FOIA or EIR; or
 - 29.3.2 is to be disclosed in response to a Request for Information,
- and in no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so in writing by the Authority.
- 29.4 The Supplier acknowledges that the Authority may be obliged under the FOIA or EIR to disclose Information:
- 29.4.1 without consulting with the Supplier; or
 - 29.4.2 following consultation with the Supplier and having taken its views into account.
- 29.5 Where Sub-Clause 29.4.2 above applies the Authority shall, in accordance with any recommendations issued under any code of practice issued under section 45 of FOIA, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention as soon as practicable after any such disclosure.

30 TRANSFER OF SERVICES

- 30.1 Where the Authority intends to continue to procure services equivalent to any or all of the Services after termination or expiry of the Contract, either by performing them itself or by the appointment of a replacement supplier, the Supplier shall use all reasonable endeavours to ensure the seamless transition of the Services to the Authority or a replacement supplier and to ensure that the transition is effected with the minimum of disruption to the Authority.
- 30.2 The Supplier shall co-operate fully during the transition period and provide full access to all data, documents, manuals, working instructions, report and any information, whether held in electronic or written form, which the Authority (acting reasonably) considers necessary.

31 NOTICE

Any demand, notice, or other communication required to be given under the Contract shall be sufficiently served if served personally on the addressee, or if sent by prepaid first class recorded delivery post to the Authority for the attention of and at the address provided on the Purchase Order and to the Supplier at the registered office address if the Supplier is a company and in all other circumstances to the Supplier's address as stated in the Purchase Order unless either party notifies the other in writing, of any alternative address for the service of notices and if so sent shall, subject to proof to the contrary, be deemed to have been received by the addressee immediately if served personally or on the second Working Day after the date of posting.

32 SEVERANCE

If any provision of the Contract is declared by any judicial or other competent authority to be void, voidable, illegal or otherwise unenforceable, or indications to that effect are received by either of the parties from any competent authority the parties shall amend that provision in such reasonable manner as achieves the intention of the parties without illegality or, at the discretion of the Authority, it may be severed from the rest of the Contract which shall remain in full force and effect unless the Authority in its reasonable discretion decides that the effect of such a declaration is to defeat the original intention of the parties, in which event the Authority shall be entitled to terminate the Contract by ten (10) Working Days' written notice to the Supplier.

33 WAIVER AND ACCUMULATION OF REMEDIES

- 33.1 The rights and remedies provided by the Contract may be waived only in writing by the relevant Representative in a manner that expressly states that such waiver is intended for, and such waiver shall only be operative with regard to, the specific circumstances referred to.
- 33.2 Unless a right or remedy of the Authority is expressed to be an exclusive right or remedy, the exercise of it by the Authority is without prejudice to the Authority's rights and remedies in equity (including, without limitation, specific performance or injunctive relief), law or under or in connection with the Contract. Any failure to exercise, or any delay in exercising, a right or remedy by either party shall not constitute a waiver of that right or remedy, or of any other rights or remedies.
- 33.3 The Authority's rights and remedies under the Contract are cumulative and may be exercisable at any time and, unless otherwise specified in these Conditions, are not exclusive of any right or remedies provided at law, in equity or otherwise.

34 VARIATIONS

Subject to Clause 5 (Variation of the Services), neither the Authority nor the Supplier shall be bound by any variation, waiver of, or addition to the Contract (including the Specification) unless evidenced in writing and signed by an authorised Representative on their behalf.

35 ASSIGNMENT OR SUB-CONTRACTING

- 35.1 The Supplier shall not assign or transfer its rights or obligations under the Contract or any part thereof to any third party without the Authority's prior written consent.

- 35.2 The Supplier shall not sub-contract the performance of the Services or any part of them without the Authority's prior written consent and any such consent shall not relieve the Supplier of any of its obligations under the Contract.
- 35.3 If the Supplier is given written consent by the Authority to sub-contract the performance of the Services or any part of them, the Supplier shall ensure that such sub-contracting arrangement provides that the Supplier shall pay the sub-contractor all sums due by the Supplier to the sub-contractor within a specified period not exceeding thirty (30) Days from receipt by the Supplier of a valid invoice.
- 35.4 The Authority may assign, novate, outsource or otherwise dispose of any or all of its rights and obligations under the Contract at any time to any person having the legal capacity, power and authority to become a party to and to perform its obligations, being:
- 35.4.1 a Minister of the Crown pursuant to any order under the Ministers of the Crown Act 1975;
- 35.4.2 any other local authority which has sufficient financial standing or financial resources to perform the obligations; or
- 35.4.3 any other public authority;
- provided that such an assignment, novation, outsourcing or disposal does not increase the burden of the Supplier's obligations under the Contract.
- 35.5 Nothing in these Conditions shall restrict the rights of the Secretary of State to effect a statutory transfer.

36 LAW AND JURISDICTION

The Contract shall be construed and be subject to English law and, subject to Clause 21 (Dispute Resolution) the parties submit to the exclusive jurisdiction of the English Courts.

37 EXCLUSION OF THIRD PARTY RIGHTS

No person who is not a party to this Contract (including any employee, officer, agent, representative or sub-contractor of either party) shall have the right to enforce any term of this Contract which expressly or by implication confers a benefit on that person and the Contracts (Rights of Third Parties) Act 1999 shall not apply to this Contract.

38 WHISTLEBLOWING POLICY

The Supplier shall comply with the Authority's Whistleblowing Policy, which ensures that employees of the Supplier are able to bring to the attention of the Authority malpractice, fraud and breach of laws on the part of the Supplier without fear of disciplinary and other retribution or discriminatory action. The Authority's Whistleblowing Policy can be found on the following link: - [London Borough of Redbridge Whistleblow Scheme](#)

39 ENVIRONMENTAL ISSUES AND SUSTAINABILITY

The Supplier shall ensure that throughout the Contract Period they comply with all Applicable Law in relation to environmental issues and sustainability that arise in relation to their performance of the Service, including but not limited to, any reasonable requirements of the Authority.

40 COUNTER-TERRORISM

The Supplier shall use its best endeavours to have in place and actively implement policies and procedures and training for employees that accords with the duties contained in the Counter-Terrorism and Security Act 2015 and which promotes an understanding of radicalisation and extremism and the relationship between them.

41 THE LOCAL INVOLVEMENT NETWORKS (DUTY OF SERVICE-PROVIDERS TO ALLOW ENTRY) REGULATIONS 2008

The Supplier shall comply in all respects and at all times with The Local Involvement Networks (Duty of Services Providers to Allow Entry) Regulations 2008 in the provision of the Services under the Contract.

ANNEX 1 – SPECIAL CONDITIONS OF CONTRACT

To be inserted if applicable

ANNEX 2 – SPECIFICATION

To be inserted if applicable

THE SCHEDULE

[To be completed as applicable]

Processing, Personal Data and Data Subjects

1. The contact details of the Controller’s Data Protection Officer are: **[insert contact details]**
2. The contact details of the Processor’s Data Protection Officer are: **[insert contact details]**
3. The Processor shall comply with any further written instructions with respect to processing by the Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Controller and Processor	<p>The parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Provider is the Processor in accordance with Clause 28 (Data Protection).</p> <p>[Notwithstanding Sub-Clause 28.1 (Data Protection) the parties acknowledge that they are also Joint Controllers for the purposes of the Data Protection Legislation in respect of:</p> <ul style="list-style-type: none"> • [insert the scope of Personal Data for which the purposes and means of the processing is determined by both parties]

	In respect of Personal Data under Joint Control, Sub-Clause 28.1 to Sub-Clause 28.14 (Data Protection) will not apply and the parties agree to put in place a Joint Controller Agreement as outlined in Annex A instead.]
Subject matter of the processing	[This should be a high level, short description of what the processing is about i.e. its subject matter]
Duration of the processing	[Clearly set out the duration of the processing including dates]
Nature and purposes of the processing	<p>[Please be as specific as possible, but make sure that you cover all intended purposes.</p> <p>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc]</p> <p>The purpose might include e.g.: employment processing, statutory obligation, recruitment assessment etc]</p>
Type of Personal Data being Processed	[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]
Categories of Data Subject	[Examples include: staff (including volunteers, agents, and temporary workers), Authority's/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc]
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	[Describe how long the data will be retained for, how it be returned or destroyed]

ANNEX A

Drafting Note: To be included only where Joint Controller applies in the Schedule

Joint Controller Agreement

In this Annex the parties must outline each party's responsibilities for:

- Providing information to Data Subjects under Articles 13 and 14 of the GDPR;
- Responding to Data Subject Requests under Articles 15 to 22 of the GDPR;
- Notifying the Information Commissioner (and Data Subjects) where necessary about data breaches;
- Maintaining records of Processing under Article 30 of the GDPR; and
- Carrying out any required Data Protection Impact Assessment.

The Agreement shall also include a statement as to who is point of contact for Data Subjects.

The essence of this relationship shall be published.

Clauses equivalent to those contained in Sub-Clause 28.1 to 28.14 (Data Protection) may be incorporated by the parties.

The parties may agree to apportion liability between them arising out of a breach in relation to data that is jointly controlled.

Where there is a Joint Control relationship and no Controller to Processor relationship under this Contract, this completed Annex A shall apply instead of Sub-Clause 28.1 to 28.14 (Data Protection) of this Contract.