

LONDON BOROUGH OF REDBRIDGE

**TERMS AND CONDITIONS FOR THE SUPPLY OF GOODS
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 goods.

These Terms and Conditions shall apply to the supply to the London Borough of Redbridge of any goods 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 GOODS 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 Goods 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 Goods 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

In this Contract, except where the context otherwise requires, the following expressions shall have the meanings hereby ascribed to them:

- 1.1 “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;
- 1.2 “Authorised Officer” means the person named in the Purchase Order or such other person appointed by the Authority to act in the name of the Authority for the purposes of the Contract;
- 1.3 “Commencement Date” means the date contained in the Purchase Order or such other date as agreed in writing between the parties to be the Commencement Date of the Contract;
- 1.4 “Conditions” means these Terms and Conditions which form part of the Contract and subject to which the Supplier has submitted their Quotation;
- 1.5 “Contract” means the whole of the agreement entered into between the Authority and the Supplier embodying these Conditions, the Authority’s Purchase Order, the Supplier’s Quotation and the Authority’s acceptance thereof;
- 1.6 “Controller” shall have the same meaning as in the Data Protection Legislation;
- 1.7 “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;

- 1.8 "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;
- 1.9 "Data Protection Impact Assessment" means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
- 1.10 "Data Protection Officer" shall have the same meaning as in the Data Protection Legislation;
- 1.11 "Data Subject" shall have the same meaning as in the Data Protection Legislation;
- 1.12 "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;
- 1.13 "Day" means any calendar day;
- 1.14 "DPA 2018" means Data Protection Act 2018;
- 1.15 "GDPR" means the General Data Protection Regulation (*Regulation (EU) 2016/679*);
- 1.16 "Goods" means any goods or supplies (including any part or parts of the same) referred to in the Purchase Order as required by the Authority and as agreed to be provided by the Supplier pursuant to the Purchase Order and the provisions of the Conditions;
- 1.17 "Intellectual Property Rights" means all intellectual property rights, whether registered or unregistered, and include 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);
- 1.18 "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;
- 1.19 "Joint Controller Schedule" means the Schedule set out at Annex A containing each party's responsibilities (if any) when acting as a Joint Controller;

- 1.20 "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;
- 1.21 "LED" means the Law Enforcement Directive (*Directive (EU) 2016/680*);
- 1.22 "Personal Data" shall have the same meaning as in the Data Protection Legislation;
- 1.23 "Personal Data Breach" shall have the same meaning as in the Data Protection Legislation;
- 1.24 "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;
- 1.25 "Processor" shall have the same meaning as in the Data Protection Legislation;
- 1.26 "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;
- 1.27 "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";
- 1.28 "Purchase Order" means the order for the Goods submitted by the Authorised Officer and incorporating these Conditions and the contents of any documents expressly referred to in the Purchase Order and annexed thereto;
- 1.29 "Quotation" means the Quotation submitted by the Supplier either orally or in writing pursuant to the Purchase Order indicating the Supplier's agreement to supply the Goods for the Price and in accordance with the Purchase Order and these Conditions;
- 1.30 "Statutory Minimum Wage" means the minimum pay per hour a worker is entitled to in order for the Supplier to comply with all law in force during the performance of the Contract, and which Statutory Minimum Wage shall,

as a minimum, be paid by the Provider at all times to those persons performing the Contract;

- 1.31 "Sub-processor" means any third party appointed to process Personal Data on behalf of the Supplier under this Contract;
- 1.32 "Supplier" means the company, organisation, partnership or person, who accepts the Purchase Order and in doing so agrees to supply the Goods pursuant to the terms of the Purchase Order and these Conditions;
- 1.33 "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;
- 1.34 "Working Day" means any day Monday to Friday, excluding public holidays, between 9:00 am and 5:30 pm save that these shall not necessarily be the hours during which the Supplier shall provide the Goods and the Goods shall be provided during such hours as stated in the Purchase Order or the Specification or as otherwise notified to the Supplier;
- 1.35 Reference to employees of the Supplier shall, unless the context otherwise requires, be deemed to include the Supplier's agents and sub-contractors, or anyone acting on the Supplier's behalf, including but not limited to, volunteers, temporary staff and workers who are engaged by the Supplier and performing the Contract on the Supplier's behalf but who may not be deemed to be an "employee" of the Supplier under the Employment Rights Act 1996;
- 1.36 Reference to time shall be construed, during the period of Summer Time, to be British Summer Time and otherwise to be Greenwich Mean Time while those terms are in use and subsequently any other time standard as may be introduced by legislation;
- 1.37 The Contract and any issues or disputes arising out of or in connection with it (whether such disputes are contractual or non-contractual in nature, such as claims in tort, for breach of statute or regulation, or otherwise) shall be governed by and construed in accordance with English Law and the parties submit to the exclusive jurisdiction of the English courts;
- 1.38 A reference to any Act of Parliament, or to any Order, Regulation, Statutory Instrument, or the like shall be deemed to include a reference to any amendment or re-enactment of the same;
- 1.39 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;
- 1.40 The headings contained in these Conditions are for convenience only and do not affect the construction or interpretation of the Conditions.

2. APPLICATION OF TERMS

- 2.1 Subject to any variation agreed in accordance with Sub-Clause 2.5 below, these Conditions and any additional requirements detailed in the Purchase Order shall constitute the entire agreement between the parties and shall govern the performance of the Contract by the Supplier to the entire exclusion of all other terms or conditions including any terms submitted by the Supplier as part of the Quotation but save for any terms contained in the Purchase Order.
- 2.2 In the event of any ambiguity or conflict between these Conditions and the terms on any Purchase Order, the terms of the Purchase Order shall prevail.
- 2.3 In submitting its Quotation the Supplier shall be deemed to have satisfied itself as to all requirements of the Purchase Order and that the Supplier is able and willing to fulfil the Purchase Order for the Price and strictly in accordance with the terms of the Purchase Order and the Conditions. The Authority shall not consider any changes to the Price requested by the Supplier in respect of any matter relating to the Goods (or any part or parts) or in respect of any cost incurred by the Supplier in fulfilling the Purchase Order or complying with any provision in the Contract.
- 2.4 No terms or conditions endorsed upon, delivered with or contained in the Quotation or any other document produced by the Supplier shall form part of the Contract or serve to vary any provision in the Contract and in submitting its Quotation the Supplier agrees to waive any right which it otherwise might have to rely on such terms and conditions.
- 2.5 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.
- 2.6 Irrespective of the absence of any signature deeming acceptance of these Conditions, the Supplier in submitting its Quotation irrevocably agrees to be bound by these Conditions as if the same were expressly repeated in the Purchase Order and signed by the parties as a deed.

3. QUALITY AND DEFECTS

- 3.1 The Supplier warrants that the Goods are fit for purpose and are of best quality, material, workmanship and design as applicable to the Goods.
- 3.2 The Supplier warrants that the Goods conform in all respects with, but not limited to:
 - 3.2.1 the Authority's requirements detailed in the Purchase Order;
 - 3.2.2 any sample(s) provided by the Supplier;
 - 3.2.3 any detail or description contained in the Quotation;

- 3.2.4 any drawings, descriptions, specifications and/or patterns supplied or advised by the Authority to the Supplier; and
 - 3.2.5 a minimum of any British Standard Specification or British Standard Code of Practice or EEC equivalent applicable to the Goods and in place at the date of supply of the Goods.
- 3.3 In supplying the Goods the Supplier shall comply with and warrants that the Goods comply with all requirements of any applicable statute, regulations, standards, statutory rules or orders or other instruments applicable to the supply of the Goods or applicable to the Goods themselves.

4. INSPECTION AND TESTING

- 4.1 At any time prior to, upon or within fourteen (14) Days following delivery of the Goods to the Authority, the Supplier shall permit the Authority to inspect and/or test the Goods or shall require the Supplier to inspect and/or test the Goods either in the presence of the Authorised Officer or any other witness nominated by the Authorised Officer, or in the absence of any witness. If the Supplier is requested to inspect and/or test the Goods in the absence of a witness, the Supplier shall provide the Authorised Officer with written confirmation that such inspection and/or test has taken place and details of the outcome of the same.
- 4.2 If the results of any inspection and/or testing of the Goods cause the Authority to determine that the Goods do not conform or are unlikely to conform with the provisions of Clause 3 (Quality and Defects) the Authority shall be permitted, without prejudice to any other rights or remedies available to the Authority to invoke any of the provisions of Clause 19 (Remedies).
- 4.3 The occurrence or absence of any inspection and/or testing of the Goods shall not diminish or otherwise affect the Supplier's obligations under the Contract and the Authority shall be permitted to invoke all provisions of the Contract irrespective of whether the Goods have been inspected and/or tested and following such inspection and/or testing accepted by the Authority or whether the Authority declined to inspect and/or test the Goods.

5. SUPPLIER'S EMPLOYEES

- 5.1 The Supplier shall ensure that it and any employees or agents engaged in the supply of the Goods shall:
 - 5.1.1 be sufficiently trained, skilled and supervised in respect of the tasks they perform;
 - 5.1.2 be trained in and shall observe all health and safety requirements as applicable to the tasks being performed and the supply of the Goods;

- 5.1.3 complete all necessary risk assessments and observe the outcome of the same;
 - 5.1.4 observe and comply with all statutes, regulations, agreements, standards or any other binding provisions in relation to the packing, labelling, handling and carriage of hazardous materials;
 - 5.1.5 when on any Authority premises observe all rules and procedures specified by the Authority in respect of those premises; and
 - 5.1.6 not act in any manner which places themselves, a third party or any property at risk of damage or harm.
- 5.2 The Supplier shall on request provide the Authorised Officer with evidence of compliance with the requirements of Sub-Clause 5.1 above.
- 5.3 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.
- 5.4 The Supplier shall ensure that every person engaged in the supply of the Goods works strictly in accordance with the EC Working Time Directive (No.2003/88), the Working Time Regulations 1998 and any subsequent Directives, Regulations, Statutes or Acts relating to working time.
- 5.5 The Supplier shall ensure that every person engaged in the supply of the Goods 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.
- 5.6 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. RELATIONSHIP OF THE PARTIES

- 6.1 Neither the Supplier nor any persons acting on the Supplier's behalf shall in any circumstances hold itself or themselves out as being the servant or agent of the Authority, otherwise than in circumstances expressly permitted by this Contract.
- 6.2 Neither the Supplier nor any persons acting on the Supplier's behalf shall in any circumstances hold itself or themselves out as being authorised to enter into any contract on behalf of the Authority, or in any other way to incur any liabilities on behalf of the Authority or bind the Authority to the performance, variation, release or discharge of any obligation or make any representations or give any warranty on behalf of the Authority.
- 6.3 The Supplier agrees that at all times in connection with this Contract the

Supplier shall be an independent contractor and nothing in this Contract shall create a relationship of agency or partnership or joint venture between the Supplier and the Authority.

- 6.4 Neither the Supplier nor any persons acting on behalf of the Supplier shall in any circumstances hold itself or themselves out as having the power to make, vary, discharge or waive any by-law or regulation of any kind.

7. DELIVERY AND PERFORMANCE

- 7.1 The Goods shall be delivered, to the place specified by the Authority in the Purchase Order or to such other place of delivery as is agreed in writing by the Authority prior to delivery of the Goods.

- 7.2 The Supplier shall off-load the Goods at the Authority's specified place of delivery at the Supplier's own risk and as directed by the Authority.

- 7.3 The Supplier acknowledges that all carriers of the Goods shall be deemed to be agents of the Supplier and not of the Authority.

- 7.4 Prior to delivery of the Goods the Supplier shall provide the Authority with all information reasonably available to the Supplier or in the Supplier's possession in respect of any potential hazards known or believed to exist in the transport, handling or use of the Goods.

- 7.5 The Supplier accepts that where the Authority has included in the Purchase Order a date and/or time for delivery of the Goods or has subsequently informed the Supplier in writing of a date and/or time for delivery of the Goods such date and/or time for delivery shall be binding on the Supplier and shall be of the essence.

- 7.6 The Supplier shall notify the Authority as soon as reasonably practicable of any anticipated delays in the delivery of the Goods save that such notification shall not relieve the Supplier of its obligations to deliver the Goods or of the Authority's rights pursuant to these Conditions if the Goods are not delivered to the originally specified date and/or time unless the Authority agrees in writing that the Goods may be delivered on an alternative date and/or time. If the Authority does agree to an alternative date and/or time for delivery of the Goods, such alternative date and/or time shall then become binding on the Supplier and shall be of the essence.

- 7.7 Unless otherwise stipulated by the Authority in the Purchase Order, or otherwise notified to the Supplier in writing, the Authority shall only accept delivery of the Goods on a Working Day.

- 7.8 The Supplier shall ensure that each delivery of Goods is accompanied by a delivery note which includes (without limitation); the Purchase Order number, date the Goods were ordered, number of packages and contents and, in the case of part delivery, the outstanding balance remaining to be delivered. The delivery note shall become the property of the Authority.

- 7.9 The Supplier accepts that signature of the delivery note on behalf of the Authority shall be evidence only of the number of packages received. Signature shall not be deemed to be acceptance of the Goods by the Authority nor shall signature be deemed as evidence that the correct quantity of Goods has been delivered or that the Goods are in good condition or of the correct quality.
- 7.10 If the Supplier delivers the Goods prior to the agreed date for delivery the Authority reserves the right to:
- 7.10.1 refuse to accept delivery of the Goods; or
 - 7.10.2 recover from the Supplier any expenditure reasonably incurred by the Authority in storing and/or insuring the Goods until the due date for delivery.
- 7.11 If the Supplier fails to deliver the Goods on the date and/or time specified by the Authority or such subsequent date and/or time agreed by the Authority, then, without prejudice to any other rights which the Authority may have pursuant to this Contract or at law, the Authority reserves the right to:
- 7.11.1 cancel the Contract in whole or in part;
 - 7.11.2 refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
 - 7.11.3 recover from the Supplier any expenditure reasonably incurred by the Authority in obtaining the Goods in substitution from another supplier; and
 - 7.11.4 seek damages from the Supplier for any additional costs, losses or expenses incurred by the Authority as a result of the Supplier's failure to deliver the Goods on the due date and/or time.
- 7.12 Where the Authority agrees in writing to accept delivery of the Goods by instalments the Contract shall be construed as a single contract in respect of each instalment. Nevertheless, failure by the Supplier to deliver any one instalment on a date and/or time for delivery specified in writing to the Supplier, shall entitle the Authority, at the Authority's entire discretion to invoke the provisions of Sub-Clause 7.11 above.
- 7.13 If the Supplier shall deliver Goods in excess of the quantities specified in the Purchase Order or otherwise notified by the Authority in writing, the Authority shall not be bound to pay for the excess Goods and the excess Goods delivered shall be and shall remain at the Supplier's risk and shall be returnable to the Supplier entirely at the Supplier's expense. The Authority shall be entitled to recover from the Supplier any costs incurred by the Authority as result of the Supplier delivering excess Goods or shall be entitled to deduct such sums from future payments due to the Supplier.

- 7.14 The Authority shall not be deemed to have accepted any Goods delivered until the expiry of fourteen (14) Days following the date on which the Goods are validly delivered to the Authority and providing that prior to the expiration of the fourteen (14) Days the Authority has not notified the Supplier of any defect in the Goods. In the event that the Authority discovers a latent defect in the Goods after the expiration of fourteen (14) Days following the date on which the Goods are delivered, the Authority may reject the Goods and invoke the provisions of Clause 19 (Remedies) providing that the Authority has notified the Supplier of such defect no later than fourteen (14) Days following the date on which the Authority identified the defect.

8. RISK AND TITLE

The Goods shall remain at the full risk of the Supplier until they have been accepted by the Authority in accordance with Clause 7 (Delivery and Performance). Upon acceptance of the Goods by the Authority risk and title in the Goods shall pass to the Authority but shall be without prejudice to the rights and remedies of the Authority pursuant to the Contract or at law.

9. PRICE

- 9.1 The Supplier shall supply the Goods for the Price, including in respect of the delivery of the Goods and any other costs incurred by the Supplier in the supply of the Goods, and unless otherwise agreed in writing by the Authority, the Price shall be exclusive of Value Added Tax ("VAT").
- 9.2 The Authority shall not accept any variation in the Price and shall not pay the Supplier any monies in respect of additional costs incurred by the Supplier in respect of the supply of the Goods unless such variation to the Price or additional costs have been agreed in writing by the Authorised Officer prior to delivery of the Goods.
- 9.3 The Authority shall pay to the Supplier such VAT as may be properly chargeable by the Supplier in connection with the supply of the Goods.

10. PAYMENT

- 10.1 Upon delivery of the Goods or no later than fourteen (14) Days following the date of delivery of the Goods the Supplier shall submit to the Authorised Officer, or such other person as notified in writing to the Supplier, an invoice setting out, in accordance with the Price contained in the Quotation or otherwise agreed in writing by the Authority in accordance with Sub-Clause 9.2 (Price), the sum due by the Authority in respect of the Goods delivered together with details of any VAT element thereon (a "Properly Submitted Invoice").
- 10.2 The Authority shall pay the Supplier the sum stated in a Properly Submitted Invoice within thirty (30) Days of receipt of the same but time for payment shall not be of the essence of the Contract.

- 10.3 Should the Authority pay the Supplier the sum stated in a Properly Submitted Invoice within fourteen (14) Days of receipt of the Properly Submitted Invoice the Authority shall be entitled to deduct two and a half percent (2.5%) from the sum stated in the Properly Submitted Invoice by way of an early payment discount ("the Discount").
- 10.4 The Authority shall not apply the Discount to any sums due to the Supplier under a Properly Submitted Invoice and not paid to the Supplier within fourteen (14) Days of receipt by the Authority of the Properly Submitted Invoice.
- 10.5 Payment of a Properly Submitted Invoice by the Authority shall not be deemed as acceptance of the Goods and all rights of the Authority in respect of the Goods and/or the acceptance thereof shall remain irrespective of whether the Authority has paid any Properly Submitted Invoice in respect of the Goods.
- 10.6 Without prejudice to any other right or remedy the Authority has under the Contract or at law, the Authority reserves the right to set off against any amount owing at any time to the Supplier pursuant to this Contract any amount owing or due to the Authority pursuant to this Contract or any other contract between the Authority and the Supplier.

11. CONFIDENTIALITY

- 11.1 The Supplier shall keep in strict confidence all technical or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Supplier by the Authority or its agents and any other confidential information concerning the Authority's business which the Supplier may obtain as a result of the Supplier performing its obligations under the Contract (the "Confidential Information").
- 11.2 The Supplier shall ensure that the Confidential Information is only disclosed to those of its employees, agents or sub-contractors as need to know the same for the purpose of discharging the Supplier's obligations to the Authority under the Contract and the Supplier shall ensure that such employees, agents or sub-contractors are subject to obligations of confidentiality no less onerous than those contained in this Clause 11 (Confidentiality).
- 11.3 Any Confidential Information in the Supplier's possession, or the possession of any employee, agent or sub-contractor of the Supplier at the date of expiration or earlier termination of the Contract, shall be immediately returned to the Authority at the Supplier's expense or shall, on the written instruction of the Authority, be destroyed by the Supplier and the Supplier shall thereafter confirm such destruction in writing.

12. INTELLECTUAL PROPERTY RIGHTS

- 12.1 The Supplier shall grant to the Authority and the Authority's officers, agents, customers and assigns a perpetual, royalty free, worldwide, non-exclusive licence to market, distribute, sell or otherwise use all Intellectual Property Rights belonging or otherwise licensed to the Supplier incorporated in or required for the use of the Goods.
- 12.2 The Supplier warrants that:
- 12.2.1 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
- 12.2.2 in respect of the Goods, the Supplier has full clear and unencumbered title to all such items, and 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.
- 12.3 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 the Intellectual Property Rights assigned or licensed to the Authority in accordance with the Contract.
- 12.4 The Supplier shall not act in any way so as to infringe, fetter or damage any Intellectual Property Rights owned or vesting in the Authority or any third party and shall fully indemnify the Authority in respect of any loss, demand, damages, costs, expenses or liability whatsoever caused as a result of the Supplier infringing this Clause 12 (Intellectual Property Rights).
- 12.5 The Supplier undertakes to fully indemnify and hold harmless the Authority from and against any costs, losses, demands, damages, liability, or expenses arising from or incurred by the Authority as a result of any demands, action(s), dispute(s), claim(s) or proceeding(s) brought by a third party in respect of their Intellectual Property Rights or any alleged breaches of such Intellectual Property Rights by the Supplier or by the Authority as a result of the Authority's use or possession of the Goods supplied by the Supplier.

13. DATA PROTECTION

- 13.1 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 Controller and may not be determined by the Processor.
- 13.2 The Processor shall notify the Controller immediately if it considers that any of the Authority's instructions infringe the Data Protection Legislation.

- 13.3 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:
- 13.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;
 - 13.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;
 - 13.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and
 - 13.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.
- 13.4 The Processor shall, in relation to any Personal Data processed in connection with its obligations under this Contract:
- 13.4.1 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;
 - 13.4.2 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 the adequacy of the Protective Measures) having taken account of the:
 - 13.4.2.1 nature of the data to be protected;
 - 13.4.2.2 harm that might result from a Data Loss Event;
 - 13.4.2.3 state of technological development; and
 - 13.4.2.4 cost of implementing any measures;
 - 13.4.3 ensure that:
 - 13.4.3.1 the Processor Personnel do not process Personal Data except in accordance with this Contract (and in particular the Schedule);
 - 13.4.3.2 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 13 (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

13.4.3.3 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;

13.4.3.4 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.

13.5 Subject to Sub-Clause 13.6 below, the Processor shall notify the Controller immediately if it:

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

13.5.2 receives a request to rectify, block or erase any Personal Data;

- 13.5.3 receives any other request, complaint or communication relating to either party's obligations under the Data Protection Legislation;
 - 13.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
 - 13.5.5 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
 - 13.5.6 becomes aware of a Data Loss Event.
- 13.6 The Processor's obligation to notify under Sub-Clause 13.5 above shall include the provision of further information to the Controller in phases, as details become available.
- 13.7 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 13.5 above (and insofar as possible within the timescales reasonably required by the Controller) including by promptly providing:
- 13.7.1 the Controller with full details and copies of the complaint, communication or request;
 - 13.7.2 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;
 - 13.7.3 the Controller, at its request, with any Personal Data it holds in relation to a Data Subject;
 - 13.7.4 assistance as requested by the Controller following any Data Loss Event;
 - 13.7.5 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.
- 13.8 The Processor shall maintain complete and accurate records and information to demonstrate its compliance with this Clause 13 (Data Protection). This requirement does not apply where the Processor employs fewer than two hundred and fifty (250) staff, unless:
- 13.8.1 the Controller determines that the processing is not occasional;

- 13.8.2 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
- 13.8.3 the Controller determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 13.9 The Processor shall allow for audits of its Data Processing activity by the Controller or the Controller's designated auditor.
- 13.10 Each party shall designate its own data protection officer if required by the Data Protection Legislation.
- 13.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Processor must:
 - 13.11.1 notify the Controller in writing of the intended Sub-processor and processing;
 - 13.11.2 obtain the written consent of the Controller;
 - 13.11.3 enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Clause 13 (Data Protection) such that they apply to the Sub-processor; and
 - 13.11.4 provide the Controller with such information regarding the Sub-processor as the Controller may reasonably require.
- 13.12 The Processor shall remain fully liable for all acts or omissions of any Sub-processor.
- 13.13 The Controller may, at any time on not less than thirty (30) Working Days' notice, revise this Clause 13 (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).
- 13.14 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.
- 13.15 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 13.1 to 13.14 above.

14. FREEDOM OF INFORMATION

- 14.1 The Supplier acknowledges that the Authority is subject to the requirements of the Code of Practice on Government Information, the Freedom of Information Act 2000 ("the FOIA"), the Environmental Information Regulations 2004 ("the EIR's") and other statutory requirements, guidance and codes of practice issued by the Information Commissioner or relevant Government departments and the Supplier agrees to assist and cooperate with the Authority (at the Supplier's expense except insofar as otherwise agreed in writing) to enable the Authority to comply with its Information (as defined in Section 84 of the FOIA) obligations.
- 14.2 The Supplier shall and shall procure that its sub-contractors shall:
- 14.2.1 transfer to the Authority any Requests for Information, or an apparent request, under the Code of Practice on Access to Government Information, the FOIA or the EIR's that it receives as soon as practicable after receipt and in any event within two (2) Working Days of receiving such Request for Information;
 - 14.2.2 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
 - 14.2.3 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 the FOIA or Regulation 5 of the EIR's.
- 14.3 The Authority shall be responsible for determining at its absolute discretion and notwithstanding any other provision in the Contract or any other agreement that the Information is confidential or commercially sensitive whether:
- 14.3.1 the Information is exempt from disclosure; or
 - 14.3.2 the Information is to be disclosed in response to a Request for Information; or
 - 14.3.3 the Information or all or any part of the Contract is to be published by the Authority.
- 14.4 The Supplier agrees that in no event shall it respond directly to a Request for Information unless expressly authorised in writing by the Authority to do so.
- 14.5 The Supplier acknowledges that the Authority may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of Functions of Public Authorities under Part 1 of the FOIA ("the Code") and freedom of information best practice for local authorities:

14.5.1 disclose Information under the FOIA or the EIR's without consulting the Supplier; or

14.5.2 disclose Information under the FOIA or the EIR's following consultation with the Supplier and having taken its views into account

provided always that where this Clause 14 (Freedom of Information) applies, the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice of the disclosure, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.

14.6 The Supplier agrees that notwithstanding any other Clause in this Contract, the Supplier hereby consents to the Authority publishing the Contract in its entirety, including from time-to-time agreed changes to the Contract, to the general public irrespective of whether such publication is pursuant to a Request for Information or otherwise.

14.7 The Contractor acknowledges that any information the Supplier or the Authority deem confidential is indicative only of the status of such information and that the Authority may nevertheless disclose such information in accordance with the provisions of this Clause 14 (Freedom of Information).

14.8 The Supplier shall ensure that all Information is retained for disclosure for a minimum of six (6) years after the date of termination or expiry (whichever is the earlier) of this Contract (or as long a period as may be agreed between the Authority and the Supplier) and shall permit the Authority to inspect such records as requested from time to time.

15. AUTHORITY PROPERTY

15.1 Materials, equipment, tools, dies, moulds, copyright, design rights or any other forms of Intellectual Property Rights in all drawings, specifications and data supplied by the Authority to the Supplier or used by the Supplier specifically in the manufacture of the Goods for the Authority (the "Authority's Property") shall at all times be and remain the exclusive property of the Authority.

15.2 The Supplier shall hold the Authority's Property in safe custody at the Supplier's own risk and shall ensure that the Authority's Property is maintained and kept in good condition by the Supplier until returned to the Authority at the Supplier's expense on expiration or earlier termination of the Contract.

15.3 The Supplier shall not make use of or dispose of the Authority's Property other than in accordance with the express written instructions of the Authorised Officer.

16. TERMINATION

- 16.1 The Authority may terminate the Contract in whole or in part at any time by issuing the Supplier with twenty-eight (28) Days written notice of such termination. Upon receipt of the notice the Supplier shall immediately cease all work being undertaken at the date of receipt of the notice. Subject to any rights of set off the Authority has pursuant to the Contract or any other contract between the Authority and the Supplier, within thirty (30) Days of receipt of an invoice the Authority shall pay the Supplier such sums as reasonably due to the Supplier pursuant to this Contract from the Commencement Date up to and including the date of receipt of the notice, including reasonable costs necessarily incurred by the Supplier since the Commencement Date. The Authority shall not be liable to the Supplier for any claims for loss of profits, consequential loss or any other direct or indirect costs or losses other than those expressly set out in this Sub-Clause 16.1.
- 16.2 The Authority may without prejudice to any other accrued rights or remedies under the Contract, terminate this Contract, and any other contract between the parties, by notice in writing having immediate effect if the Supplier:
- 16.2.1 commits a material breach of any of the terms of the Contract and which breach is either incapable of being remedied or, if capable of being remedied, the Supplier has not remedied the breach within fourteen (14) Days of being notified in writing of the same; and/or
 - 16.2.2 repeatedly breaches any term or terms of the Contract in such a manner as to reasonably justify the Authorised Officer to conclude that the Supplier does not have the intention and/or the ability to satisfactorily perform the Contract; and/or
 - 16.2.3 has offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or having done or forborne to do any action or omission in relation to the obtaining or execution of the Contract or any other contract with the Authority, or for showing or forbearing to show favour or disfavour to any person in relation to the Contract or any other contract with the Authority, or if the like acts shall have been done by any person engaged by the Supplier or acting on the Supplier's behalf (whether with or without the Supplier's knowledge), or if in relation to the Contract or any other contract with the Authority the Supplier or any person before referred to shall have committed any offence under the Bribery Act 2010 or shall have given any fee or reward the receipt of which is an offence under the Local Government Act 1972; and/or
 - 16.2.4 has any distress, execution or other process levied upon any of its assets; and/or

- 16.2.5 has a bankruptcy order made against it or makes an arrangement or composition with its creditors, or otherwise takes the benefit of any statutory provision for the time being in force for the relief of insolvent debtors, or (being a body corporate) convenes a meeting of creditors (whether formal or informal), or enters into liquidation (whether voluntary or compulsory) except a solvent voluntary liquidation for the purpose only of reconstruction or amalgamation, or has a receiver or manager, administrator or administrative receiver appointed over its undertaking or any part thereof, or documents are filed with the court for the appointment of an administrator of the Supplier or notice of intention to appoint an administrator is given by the Supplier or its directors or by a qualifying floating charge holder (as defined in paragraph 14 of Schedule B1 to the Insolvency Act 1986), or a resolution is passed or a petition presented to any court for the winding-up of the Supplier or for the granting of an administration order in respect of the Supplier, or any proceedings are commenced relating to the insolvency or possible insolvency of the Supplier; and/or
- 16.2.6 ceases or threatens to cease to carry on its business; and/or
- 16.2.7 experiences a deterioration in its financial position to such an extent that in the reasonable opinion of the Authority the capability of the Supplier adequately to fulfil its obligations under the Contract has been placed in jeopardy; and/or
- 16.2.8 there is a change of control of the Supplier as defined in s574 of the Capital Allowances Act 2001; and/or
- 16.2.9 as a result of any misconduct or mismanagement on the Supplier's part has a Regulatory Body make an order of any kind in relation to the Supplier's affairs; and/or
- 16.2.10 has any registration which the Supplier must maintain in order to provide all or any part of the Goods withdrawn or cancelled; and/or
- 16.2.11 commits or causes the commission of any criminal offence in providing the Goods.
- 16.3 If the Contract is terminated in whole or in part in accordance with any of the provisions contained in Sub-Clause 16.2 above, the Authority may, without prejudice to any other rights or remedies the Authority has at law, invoke the provisions of Clause 19 (Remedies).
- 16.4 The terms of the Contract which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding expiration of the Contract or prior termination pursuant to this Clause 16 (Termination).

17. INDEMNITY

- 17.1 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:
- 17.1.1 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 Goods with the Contract;
 - 17.1.2 any claim made against the Authority arising out of, or in connection with, the supply of the Goods, 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;
 - 17.1.3 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 Goods;
 - 17.1.4 all damage to the Authority's property caused by the Supplier or its representatives (including any damage or destruction to, corruption of, or loss of data held by the Authority);
 - 17.1.5 any breach of Data Protection Law by the Supplier; and
 - 17.1.6 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 11 (Confidentiality) or Clause 12 (Intellectual Property Rights).
- 17.2 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.
- 17.3 The provisions of this Clause 17 (Indemnity) shall survive termination of the Contract howsoever arising and shall remain enforceable by the Authority for a period of six (6) years following the date of termination.
- 17.4 For the avoidance of doubt, the Authority's rights under this Clause 17 (Indemnity) are in addition to and without prejudice to the express or implied statutory rights of the Authority pursuant to the Sale of Goods Act 1979 and/or the Supply of Goods and Services Act 1982 and any other statute.

18. LIABILITY

- 18.1 In this Clause 18 (Liability) a reference to the Authority's liability for something is a reference to any liability whatsoever which the Authority may have for it, its consequences, and any direct, indirect or consequential

loss, damage, costs or expenses resulting from 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.

18.2 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.

18.3 Subject to Sub-Clause 18.5 below, the Authority shall not have any liability for:

18.3.1 any indirect or consequential loss or damage;

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

18.3.3 any damage to goodwill or reputation;

18.3.4 loss, theft, damage or destruction to any equipment, tools, machinery, vehicles or other equipment belonging to the Supplier;
or

18.3.5 any loss, damages, costs or expenses suffered or incurred by any third party.

18.4 Subject to Sub-Clause 18.5 below, the Authority's total liability shall be limited to the Price it has paid or is due to pay to the Supplier pursuant to these Conditions.

18.5 Nothing in this Clause 18 (Liability) restricts the Authority's liability for:

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

18.5.2 its fraud (including fraudulent misrepresentation).

19. REMEDIES

19.1 Without prejudice to any other right or remedy the Authority may have pursuant to the Contract or at law, if the Supplier fails to supply the Goods in accordance with the Contract or otherwise breaches any term of the Contract irrespective of the Authority's acceptance of any part of the Goods the Authority shall be entitled at the Authority's discretion to avail itself of any one or more of the following remedies:

19.1.1 to cancel all or part of the Purchase Order;

19.1.2 to reject all or part of the Goods and, at the Authority's discretion, return them to the Supplier at the risk and cost of the Supplier on the basis that if the Authority has already paid for the Goods

returned and/or rejected the Supplier shall forthwith pay the Authority a full refund for the Goods;

- 19.1.3 to permit the Supplier the opportunity at the Supplier's expense either to remedy any defect in the Goods or to supply replacement Goods and carry out any other necessary work to ensure that the terms of the Contract are fulfilled;
 - 19.1.4 to refuse to accept any further deliveries of the Goods but without any liability to the Supplier;
 - 19.1.5 to withhold payment of all or part of a Properly Submitted Invoice;
 - 19.1.6 to carry out any work necessary to make the Goods comply with the Contract and to recover from the Supplier all costs incurred in respect of the same;
 - 19.1.7 to obtain the Goods or any part of the Goods from an alternative supplier and to recover from the Supplier any additional costs incurred by the Authority as a result of the same;
 - 19.1.8 to set off against any amounts owed to the Supplier or to recover from the Supplier as a debt, any loss or damage to the Authority resulting from or arising out of the breach or breaches of the Contract by the Supplier or the termination of the Contract by the Authority pursuant to the provisions of Sub-Clause 16.2 (Termination).
- 19.2 For the avoidance of doubt, all sums recoverable by the Authority pursuant to this Clause 19 (Remedies) shall also include the reasonable cost to the Authority of the time spent by its officers in invoking such remedy or remedies.

20. INSURANCE

- 20.1 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.
- 20.2 The insurance required under Sub-Clause 20.1 above shall include, as a minimum:
- 20.2.1 employer's liability insurance with a limit of indemnity of not less than five million pounds (£5,000,000) per claim;
 - 20.2.2 public liability insurance with a limit of indemnity of not less than ten million pounds (£10,000,000) per claim;

- 20.2.3 if applicable, professional indemnity insurance with a limit of not less than two million pounds (£2,000,000) per claim; and
- 20.2.4 product liability insurance with a limit of not less than two million pounds (£2,000,000) per claim.
- 20.3 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 20 (Insurance).
- 20.4 The Supplier shall not do or permit anything, or make any omission, which might cause any insurance to be voided.
- 20.5 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities incurred in connection with the Contract.
- 20.6 The Supplier shall inform the Authority in writing whenever there is any change to the insurance referred to in this Clause 20 (Insurance) (including any change in the scope or level of cover or the identity of the insurer).

21. ASSIGNMENT AND SUB-CONTRACTING

- 21.1 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 perform its obligations, being:
 - 21.1.1 a Minister of the Crown pursuant to any order under the Ministers of the Crown Act 1975;
 - 21.1.2 any other local authority which has sufficient financial standing or financial resources to perform the obligations; or
 - 21.1.3 any other public authorityprovided that such an assignment, novation, outsourcing or disposal does not increase the burden of the Supplier's obligations under the Contract.
- 21.2 Nothing in these Conditions shall restrict the rights of the Secretary of State to effect a statutory transfer.
- 21.3 The Supplier shall not:
 - 21.3.1 assign the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof;
 - 21.3.2 sub-contract the supply of the Goods or any part thereof without the previous written consent of the Authority, which consent shall be in the absolute discretion of the Authority and, if given, shall not relieve the Supplier from any liability or obligation under the Contract. In the event of any sub-contract the Supplier shall remain responsible

for the acts, defaults or neglect of any sub-contractor, its employees or agents in all respects as if they were the acts, defaults or neglect of the Supplier, its employees or agents.

- 21.4 If the Supplier is given permission to sub-contract all or any part of the supply of the Goods 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.

22. NOTICES

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 Quotation 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.

23. ENFORCEMENT, WAIVER AND VALIDITY

- 23.1 Each right or remedy of the Authority under the Contract is without prejudice to any other right or remedy of the Authority whether under the Contract or at law.
- 23.2 Failure by the Authority at any time to enforce the provisions of the Contract or to require performance by the Supplier of any of the provisions of the Contract shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part thereof or the right of the Authority to enforce any provision in accordance with its terms.
- 23.3 If any provision of the Contract is found by any court, tribunal or administrative body of competent jurisdiction to be wholly or partly illegal, invalid, void, voidable, unenforceable or unreasonable it shall, to the extent of such illegality, invalidity, voidness, voidability, unenforceability or unreasonableness, be deemed severable and the remaining provisions of the Contract and the remainder of such provision shall continue in full force and effect.

24. 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.

25. VARIATIONS

Neither the Authority nor the Supplier shall be bound by any variation, waiver of, or addition to the Contract unless evidenced in writing and signed by a duly authorised representative on their behalf.

26. DISPUTE RESOLUTION

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

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

26.1.2 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 26.2 below.

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

26.2.1 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;

26.2.2 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

26.2.3 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.

26.3 If the parties are able to resolve the dispute through mediation under this Clause 26 (Dispute Resolution), the parties' authorised representatives shall document the resolution and sign a memorandum evidencing its terms.

26.4 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.

- 26.5 Nothing in this Clause 26 (Dispute Resolution) shall prevent either party from instigating legal proceedings where an order for an injunction, disclosure or legal precedent is required.
- 26.6 The Supplier shall continue to provide the Goods and to perform its obligations under the Contract notwithstanding any dispute or the implementation of the procedures set out in this Clause 26 (Dispute Resolution).

27. CORRUPTION

- 27.1 The Supplier undertakes to:
 - 27.1.1 comply with all Applicable Laws and regulations and codes relating to anti bribery and anti-corruption including, but not limited to, the Bribery Act 2010;
 - 27.1.2 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;
 - 27.1.3 comply with the Authority's anti-corruption policies disclosed to the Supplier from time to time;
 - 27.1.4 ensure that any of persons acting on its behalf in association with the supply of the Goods comply with this Clause 27 (Corruption); and
 - 27.1.5 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.
- 27.2 For the purposes of Sub-Clause 27.1 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.
- 27.3 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:
 - 27.3.1 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;

27.3.2 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;

27.3.3 breaches the undertaking set out in Sub-Clause 27.1 above; or

27.3.4 gives any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

27.4 For the purposes of Sub-Clause 27.3 above, "loss" shall include, but shall not be limited to:

27.4.1 the Authority's costs in finding a replacement Supplier;

27.4.2 direct, indirect and consequential losses;

27.4.3 any loss suffered by the Authority as a result of a delay in its receipt of the Goods.

28. EQUALITY

28.1 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 performance of its obligations under this Contract.

28.2 The Supplier shall take all reasonable steps to secure the observance of Sub-Clause 28.1 above by all of its Representatives engaged in the performance of the Contract.

28.3 The Supplier shall:

28.3.1 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

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

28.4 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.

29. 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](#)

30. ENVIRONMENTAL ISSUES AND SUSTAINABILITY

The Supplier shall ensure that throughout the Contract Period they comply with all applicable legislation 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.

31. 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.

32. COMPLIANCE WITH APPLICABLE LAW

Without prejudice to any specific requirements contained in this Contract, the Supplier shall comply with all Applicable Law in relation to the supply of the Goods and as applicable to the Supplier more generally.

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 13 (Data Protection).</p> <p>[Notwithstanding Sub-Clause 13.1 (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] <p>In respect of Personal Data under Joint Control, Sub-Clause 13.1 to Sub-Clause 13.14 (Data Protection) will not apply and the parties agree to put in place a Joint Controller Agreement as outlined in Annex A instead.]</p>
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]

<p>Nature and purposes of the processing</p>	<p><i>[Please be as specific as possible, but make sure that you cover all intended purposes.]</i></p> <p><i>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc]</i></p> <p><i>The purpose might include e.g.: employment processing, statutory obligation, recruitment assessment etc]</i></p>
<p>Type of Personal Data being Processed</p>	<p><i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc]</i></p>
<p>Categories of Data Subject</p>	<p><i>[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]</i></p>
<p>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</p>	<p><i>[Describe how long the data will be retained for, how it be returned or destroyed]</i></p>

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 13.1 to 13.14 (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 13.1 to 13.14 (Data Protection) of this Contract.