

Text highlighted in red will be amended for each Contract Award (delete this before sending)

Terms and Conditions of Contract

Insert reference and title of Contract.

Document Change Control

Ref	Details of Change	Effective
1	Clause 6.4 added – Suppliers to submit invoices in PDF format to marketplace.invoices@kirklees.gov.uk or as indicated on the purchase order	19.08.2019
2	Standard Contract template for tendering purposes with added Contract Date and Effective Date	21.08.2020
3	Updated GDPR terms amended	30.06.2022
4	Contract Performance added	17.01.2023
5	Discrimination added	17.01.2023
6	Accessibility updated	14.07.2023
7	Legal review and update – ICT Special Terms and Conditions and Property Schedule added	24.03.2024

Contract Summary

Date:	
Agreement No:	[AGREEMENT NUMBER]
Customer:	West Yorkshire Fire & Rescue Authority
Customer's address:	Oakroyd Hall, Bradford Road, Birkenshaw, Bradford, West Yorkshire. BD11 2DY
Customer Representatives:	Contact: [POSITION OF CONTACT] Email address: [EMAIL ADDRESS] DX number: [DX NUMBER]
Supplier:	[COMPANY NAME] (No. [NUMBER])
Supplier's address:	[ADDRESS]
Supplier Representatives:	Contact: [POSITION OF CONTACT] Email address: [EMAIL ADDRESS] DX number: [DX NUMBER]
Commencement Date:	[DATE OR The date when both parties have signed the Agreement.]
Initial Period:	[TERM]
Extension Period:	[EXTENSION PERIOD]
Termination convenience period:	for [Notice Period in days / months]
Price:	[PRICE] OR [the price for Goods set out in the [Purchase Order] [Award Letter]]
Liability:	General Liability Limitation £[INSERT] (see clause [16.2])
Schedules:	Applies to this contract
	Data Protection Schedule
	ICT Special Terms Schedule
	Property Special Terms Schedule

Conditions

Definitions

Unless the context otherwise requires of the Agreement or these Conditions specifically provide otherwise, the following words and phrases, where they appear in capitalised form in the Agreement or these Conditions, shall have the meanings stated or referred to below.

“Agreement”	means this Agreement between (i) the Customer and (ii) the Supplier
“Appointed Consultant”	the consultant (or any successor nominated or otherwise agreed) to undertake certain duties on behalf of the Customer.
“Approval”	means the prior written consent of the Customer and Approve and Approved shall be construed accordingly.
“Award”	means a Purchase Order and/or an Award Letter from the Customer to the Supplier.
“Charges”	means the price (exclusive of any applicable VAT), payable to the Supplier by the Customer under this Agreement, as set out in clause 6 charges for the Goods or Services.
“Conditions”	the clauses as set out in this Agreement, together with any special terms and conditions agreed in writing by the Customer as set out in the Agreement.
“Confidential Information”	means all information, whether written or oral (however recorded or preserved), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential.
“Contract Date”	the date on which the parties agree to be bound by the terms of the contract.
“Customer”	means West Yorkshire Fire & Rescue Authority or any successor organisation responsible for tendering, award and overall management of the Agreement and for the undertaking of any commercial negotiations in connection with the Agreement.
“Customer Materials”	means all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier.
“Data Protection Legislation”	all applicable data protection and privacy legislation in force from time to time in the UK including the UK GDPR; the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder); and the Privacy and Electronic Communications Regulations 2003 (SI 2003 No. 2426) as amended; and all other legislation and regulatory requirements in force from time to time which apply to a party relating to the use of Personal Data (including, without limitation, the privacy of electronic communications); and the guidance and codes of practice issued by the Information Commissioner or other relevant data protection or supervisory authority and applicable to a party.
“Default”	means any breach of the obligations of the Supplier or any other default (including material Default) after the words, act, omission, negligence or statement of the Supplier, of its sub-contractors or any Supplier Personnel howsoever arising in connection with or in relation to the subject-matter of this Agreement and in respect of which the Supplier is liable to the Customer.

“Deliverables”	means all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).
“Delivery Date”	the date specified for delivery of Goods in an Order.
“Delivery Location”	the location specified for delivery of goods in an Order.
“Domestic Law”	The law of the United Kingdom or part of the United Kingdom.
“Effective Date”	unless otherwise agreed in writing between the parties means the Commencement Date specified in Clause 4.
“Environmental Information Regulations” or “EIRs”	means the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
“Equipment”	the Supplier's equipment, plant, materials and such other items supplied and used by the Supplier in the performance of its obligations under the Agreement.
“EU GDPR”	the General Data Protection Regulation ((EU 2016/679).
“EU Law”	the law of the European Union or any member state of the European Union.
“UK GDPR”	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
“Expiry Date”	means the date for expiry of this Agreement.
“Facilities”	the buildings and premises specified in the Property Special Terms Schedule, or as otherwise agreed between the parties.
“FOIA”	means the Freedom of Information Act 2000 and any subordinate legislation made under that Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
“Force Majeure Event”	means any event or occurrence which is outside the reasonable control of the Party concerned and which is not attributable to any act or failure to take preventative action by that Party, including, without limitation: acts of God; fire; flood; drought; earthquake or other natural disaster; violent storm; pestilence; explosion; malicious damage; armed conflict; acts of terrorism; civil war, civil commotion or riots; war; nuclear, biological or chemical warfare or sonic boom; epidemic or pandemic; or any other disaster, natural or man-made; any labour or trade dispute, strikes, industrial action or lockouts (other than in each case by the party seeking to rely on this clause, or companies in the same group as that party); interruption or failure of utility service.
“Goods”	Means the goods or products to be supplied by the Supplier to the Customer under this Agreement.
“Law”	means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, byelaw, enforceable right, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law or directives or requirements with which the Supplier is

	bound to comply as amended from time to time including compliance with any sanctions regimes.
“Improvement Notice”	means a notice issued on the Supplier to improve minor defaults of the Contract or the Order Form instructing the Supplier to improve or remedy any minor defaults in the provision of the Services.
“Information”	has the meaning given to it under section 84 of the FOIA.
“Intellectual Property Rights” and “IPRs”	means patents, rights to inventions, copyright and neighbouring and related rights, moral rights, trademarks and service marks, business names and domain names, rights in get-up and trade dress, goodwill and the right to sue for passing off, rights in designs, rights in computer software, database rights, rights to use, and protect the confidentiality of, confidential information (including know-how and trade secrets) and all other Intellectual Property Rights, in each case whether registered or unregistered and including all applications and rights to apply for and be granted, renewals or extensions of, and rights to claim priority from, such rights and all similar or equivalent rights or forms of protection which subsist or will subsist now or in the future in any part of the world.
“Key Personnel”	means any persons notified as such in writing by either Party to the other Party.
“Order”	an order for Goods submitted by the Customer.
“Party”	means the Supplier or the Customer (as appropriate) and “Parties” shall mean both Supplier and Customer.
“Personal Data”	as defined in Data Protection Legislation.
“Processing”	as defined in Data Protection Legislation.
“Premises”	means the location where the Goods and/or Services are to be supplied, as set out in the Order Form.
“Prohibited Act”	means the acts described in the Bribery Act 2010.
“Purchase Order”	means the Customer’s unique number relating to the supply of the Goods or Services.
“Request for information”	means a request for information or an apparent request relating to this Agreement or the provision of the Goods or an apparent request for such information under the FOIA or the EIRs.
“Services”	means the services to be supplied by the Supplier to the Customer under this agreement.
“Specification”	means the specification for the Goods or Services (including as to quantity, description and quality) as specified by the Customer and submitted as part of the tender response (Appendix D).
“Staff”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier’s obligations under this Agreement.
“Staff Vetting Procedures”	means vetting procedures that accord with good industry practice or, where requested by the Customer, the Customer’s procedures for the vetting of personnel as provided to the Supplier from time to time.
“Supplier”	means the company or person to which the contract is awarded.

“Supplier Personnel”	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any Sub-contractor engaged in the performance of the Supplier's obligations under this Agreement.
“Term”	means the period from the Commencement Date of this Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause 4.2 or terminated in accordance with the terms and conditions of the Agreement.
“UK GDPR”	has the meaning given to it in section 3(10) (as supplemented by section 205(4)) of the Data Protection Act 2018.
“Unfit Persons”	Means a person who, in the reasonable opinion of the Customer, is not of fit and proper standing and lacks the competence and capability to carry out the function they are required to perform.
“VAT”	means value added tax in accordance with the provisions of the Value Added.
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.
“Whistle Blowing Policy”	means the WYFRS Whistle Blowing Policy, available on request.
“WYFRA”	means the West Yorkshire Fire and Rescue Authority.
“WYFRS”	means the West Yorkshire Fire and Rescue Service.

1. Common

- 1 In the Agreement and these conditions unless the context otherwise requires, capitalised expressions shall have the meanings set out in clause 1 above or the relevant clause of Schedule in which that capitalised expression appears:
- 1.1. the headings, footnotes and clauses are included for convenience only and shall not affect the interpretation of the Contract;
 - 1.2. The singular includes the plural and vice versa;
 - 1.3. any reference to the masculine gender shall include the feminine and neuter and vice versa;
 - 1.4. the headings are inserted for ease of reference only and shall not affect the construction of this Agreement;
 - 1.5. where any party comprises two or more persons, any obligations of that party in, under or arising from this Agreement is undertaken by or binding upon such two or more persons jointly and severally;
 - 1.6. a reference to a statute, statutory instrument or other subordinate legislation ('legislation') is to legislation as amended and in force from time to time, including any legislation which re-enacts or consolidates it, with or without modification, and including corresponding legislation in any other relevant part of the United Kingdom;

- 1.7. the word 'including' shall be understood as meaning 'including without limitation'; and
- 1.8. any reference to written or writing includes email but not fax;
- 1.9. If there is any conflict between the Clauses and the Schedules and/or any Annexes to the Schedules, the conflict shall be resolved in accordance with the following order of precedence:
 - 1.9.1. The Schedules and their Annexes (if any);
 - 1.9.2. The Clauses of the Terms and Conditions of Contract.

2. Basis of Agreement

- 2.1. Time shall be of the essence of this Agreement.
- 2.2. The Customer may submit an Order (Purchase Order and/or Award Letter) at any time for the Goods and/or Services. An Order constitutes an offer by the Customer to purchase the Goods and/or Services from the Supplier subject to and in accordance with the terms and conditions of this Agreement.
- 2.3. An offer based on an Award Letter shall be deemed to be accepted by the Supplier on the earlier of (a) receipt by the Customer of a copy of the Award Letter countersigned by the Supplier within 7 days of the date of the Award Letter; or (b) any act by the Supplier consistent with fulfilling the Award, at which point the Award shall be subject to the terms and conditions of this Agreement
- 2.4. These terms and conditions apply to the Agreement to the exclusion of any other terms that the Supplier seeks to impose or incorporate, or which are implied by law, trade custom, practice or course of dealing.

3. Supply & Delivery of Goods (if applicable)

- 3.1 In supplying the Goods, the Supplier shall co-operate with the Customer in all matters relating to the supply of Goods and comply with all the Customer's instructions.
- 3.2 The Supplier shall supply the Goods with full title guarantee in accordance with the Specification. The Supplier warrants, represents, undertakes and guarantees that the Goods supplied under this Agreement shall:
 - 3.2.1 be free from defects (manifest or latent), in design, materials and workmanship and remain so for 12 months after delivery;
 - 3.2.2 be of satisfactory quality (within the meaning of the Consumer Rights Act 2015) and comply with any applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods;
 - 3.2.3 conform with the specifications (including the contract Specification), drawings, descriptions given in quotations, estimates, brochures, sales, marketing and

technical literature or material (in whatever format made available by the Supplier) supplied by, or on behalf of, the Supplier;

3.2.4 be of the same quality and description as any sample provided;

3.2.5 be fit for any purpose held out by the Supplier or made known to the Supplier by the Customer expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgement. The Supplier acknowledges and agrees that the approval by the Customer of any designs provided by the Supplier shall not relieve the Supplier of any of its obligations under this sub-clause; and

3.2.6 and the Supplier itself shall, comply with all applicable laws.

3.3 Unless otherwise agreed in writing by the Customer, delivery of the Goods shall be completed once the completion of unloading the Goods from the transporting vehicle at the Delivery Location has taken place and the Customer has signed for the delivery.

3.4 Delivery of the Goods shall be accompanied by a delivery note which shows the Purchase Order Number and the type and quantity of the Goods and, in the case of part delivery, the outstanding balance remaining to be delivered.

3.5 The supplier transfers ownership of the Goods on Delivery to the Customer or payment for those Goods, whichever is earlier.

3.6 Risk in the Goods transfer to the Customer on Delivery of the Goods but remains with the Supplier if the Customer notices damage following Delivery and lets the Supplier know within 3 Working Days of Delivery.

3.7 Unless otherwise stipulated by the Customer, the Supplier shall deliver the Goods specified in each Order to the Delivery Location on the Delivery Date and deliveries shall only be accepted by the Customer on Working Days and during normal business hours.

3.8 Where (i) the Supplier fails to deliver the Goods or part of the Goods or (ii) the Goods or part of the Goods do not comply with the provisions of clause 2, then without limiting any of its other rights or remedies implied by statute or common law, the Customer shall be entitled to terminate this Agreement with immediate effect;

3.8.1 refuse to take any subsequent attempted delivery of the Order

3.8.2 request the Supplier, free of charge, to deliver substitute Goods within the timescales specified by the Customer;

3.8.3 to require the Supplier, free of charge, to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid)

3.8.4 to reject the Goods (in whole or part) and return them to the Supplier at the Supplier's own risk and expense and the Customer shall be entitled to a full refund on those Goods or part of Goods duly returned; and

3.8.5 obtain substitute products from another supplier and recover from the Supplier any costs and expenses reasonably incurred by the Customer in obtaining such substitute products;

3.9 If the Customer fails to accept delivery of an Order on the specified Delivery Date, then, except where such failure or delay is caused by the Supplier's failure to comply with its obligations under this Agreement:

- 3.9.1 The Order shall be deemed to have been delivered at 9:00am on the Delivery Date; and
- 3.9.2 The Supplier shall store the Order until delivery takes place and charge the Customer for all related costs and expenses (including insurance).

4. Provision of Services (if applicable)

- 4.1 In consideration of the Customer's agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with the terms and conditions of this Agreement and the tender response submitted.

In supplying the Services, the Supplier shall:

- 4.1.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer's instructions;
- 4.1.2 perform the Services in accordance with the Service Specification and with best care, skill and diligence in accordance with best practice in the Supplier's industry, profession or trade;
- 4.1.3 use Staff who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Agreement;
- 4.1.4 ensure that the Services shall conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose that the Customer expressly or impliedly makes known to the Supplier;
- 4.1.5 comply with all applicable laws; and
- 4.1.6 provide all equipment, tools and vehicles and other items as are required to provide the Services;
- 4.1.7 use the appropriate goods, materials, standards and techniques, and ensure that the Deliverables and all goods and materials supplied and used in the Services or transferred from the Customer, will be free from defects in workmanship, installation and design;
- 4.1.8 obtain and at all times maintain all licences and consents which may be required for the provision of the Services;
- 4.1.9 observe all health and safety rules and regulations relevant to the Services;
- 4.1.10 hold all Customer Materials in safe custody at its own risk, maintain such in good condition until returned to the Customer, and not dispose of or use such other than in accordance with the Customer's written instructions or authorisation; and
- 4.1.11 not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purpose of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.

- 4.2 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, all Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier. Any variation must not fundamentally change the original scope of the tender.
- 4.3 Service credit levels stated in the specification will be applicable to this individual Contract/Purchase Order.

5. Term

- 5.1 An Agreement for Services shall take effect on the date specified in the Purchase Order and/or Award Letter and shall expire on the Expiry Date unless it is otherwise extended in accordance with **clause 5.2** or terminated in accordance with the terms and conditions of this Agreement.

Commencement Date: *****
Initial Expiry Date: *****
Expiry Date: *****

- 5.2 Subject to satisfactory performance during the initial contract period, The Parties may extend this Agreement for Services for a period of 12 months from **insert date** by giving not less than 30 Working Days' notice in writing to the Initial Expiry Date. The terms and conditions of this Agreement shall apply throughout any such extended period.

6. Charges, Payment and Recovery of Sums Due

- 6.1 The Charges for the Goods or Services shall be as set out in the Purchase Order and / or Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Goods or Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Goods or Services.
- 6.2 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Goods or Services. Any amendments to the Charges must be substantiated by comprehensive evidence provided to the Customer in writing and any amendments agreed and signed by both Parties. **Charges are fixed for *****.**
- 6.3 The Supplier shall invoice the Customer as specified in this Agreement. When expressly required by the Customer and prior to raising invoices, the Supplier shall present, a monthly schedule of all services undertaken for that month. Each schedule shall include such supporting information required by the Customer to verify the accuracy of the intended charges, including the relevant Purchase Order number and a breakdown of the Goods or Services supplied in the invoice period. The Customer shall confirm acceptance (or otherwise) of the schedule, following which the Supplier shall invoice the Customer.
- 6.4 Invoices must be submitted in PDF format: to marketplace.invoices@kirklees.gov.uk or as indicated on the Purchase Order.
- 6.5 In consideration of the supply of the Goods or Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after verifying that the invoice is valid and undisputed and includes a valid Purchase Order number. The Customer may, without

prejudice to any other rights and remedies under this Agreement, withhold or reduce payments in the event of unsatisfactory performance.

- 6.6 If the Customer fails to consider and verify an invoice in a timely fashion the invoice shall be regarded as valid and undisputed for the purpose of paragraph **6.3** after a reasonable time has passed.
- 6.7 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Goods or Services unless the Supplier is entitled to terminate this Agreement for a failure to pay undisputed sums in accordance with **clause 18.3**. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in **clause 22**.
- 6.8 If a party fails to make payment due to the other party under the Agreement by the due date for payment, then the defaulting party shall pay interest on the overdue sum from the due date until payment, whether before or after judgement. Interest will accrue each date at 2% a year above the Bank of England's base rate from time to time. If payment is disputed in good faith, interest is only payable after the dispute is resolved on sums found or agreed to be due, from the date the dispute is resolved until payment.
- 6.9 The Customer may at any time, without notice to the Supplier, set off any liability of the Supplier to the Customer against liability of the Customer to the Supplier, whether either liability is present or future, liquidated or unliquidated, and whether or not either liability arises under the Agreement.
- 6.10 Where the Supplier enters into a sub-contract, the Supplier shall include in that sub-contract:
- 6.10.1 provisions having the same effects as clauses 6.3 to 6.7 of this Agreement; and
 - 6.10.2 a provision requiring the counterparty to that sub-contract to include in any sub-contract which it awards, provisions having the same effect as 6.3 to 6.8 of this Agreement.
 - 6.10.3 In this clause 6.9, "sub-contract" means a contract between two or more suppliers, at any stage of remoteness from the Customer in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Agreement.
- 6.11 If any sum of money is recoverable from or payable by the Supplier under this Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of this Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under this Agreement or under any other Agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part.

7. Premises and equipment

- 7.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Goods or Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the Supplier's risk.

- 7.2 If the Supplier supplies all or any of the Goods or Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 7.3 If the Supplier supplies all or any of the Goods or Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Goods or Services are supplied at or from the relevant premises.
- 7.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and shall procure that all Staff shall, comply with all the Customer's security requirements.
- 7.5 Where any of the Goods and/or Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 7.6 Without prejudice to **clause 4.1.6**, any equipment provided by the Customer for the purposes of this Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out this Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of this Agreement.
- 7.7 The Supplier shall reimburse the Customer for any loss or damage to the equipment (other than deterioration resulting from normal and proper use) caused by the Supplier or any Staff. Equipment supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days.

8. Staff and Key Personnel

- 8.1 If the Customer reasonably believes that any of the Staff are Unfit Persons to undertake work in respect of this Agreement to supply Services, it may, by giving written notice to the Supplier:
- 8.1.1 refuse admission to the Unfit Person(s) to the Customer's premises;
 - 8.1.2 direct the Supplier to end the involvement in the provision of the Services of the Unfit Person(s); and/or
 - 8.1.3 require that the Supplier replace any Unfit Person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the Unfit Person removed is surrendered, and the Supplier shall comply with any such notice.
- 8.2 The Supplier shall:

- 8.2.1 ensure that all Staff involved in delivering Services are vetted in accordance with appropriate Staff Vetting Procedures and if requested, comply with the Customer's Staff Vetting Procedures as supplied from time to time;
 - 8.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with this Agreement; and
 - 8.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.
- 8.3 Any Key Personnel shall not be released from supplying the Services without the prior agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances.
- 8.4 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

9. Assignment and sub-contracting

- 9.1 The Supplier shall not without the prior written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/ or the burden of this Agreement or any part of this Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 9.2 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 9.3 The Customer may assign, novate, or otherwise dispose of its rights and obligations under this Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under this Agreement.

10. Contract Performance

- 10.1 In supplying the Goods and/or Services, the Supplier shall perform its obligations under the Contract:
- 10.1.1. with appropriately experienced, accredited, qualified, and trained Staff with all due care and attention;
 - 10.1.2. in a timely manner; and
 - 10.1.3. in compliance with applicable Laws, including any obligations implied by Section 12 and 14 of the Sale of Goods Act 1979 and Section 2 of the Supply of Goods and Services Act 1982.

10.2 the Supplier shall discharge its obligations hereunder with all due skill, care and diligence including good industry practice and (without limited the generality of this Clause) in accordance with its own established internal procedures.

11. Intellectual Property Rights

11.1 The Supplier grants the Customer a perpetual, royalty-free, irrevocable, non-exclusive license (with the right to sub-license) to use all Intellectual Property Rights in the Goods or in any materials accompanying the Goods to the extent that it is necessary to fulfil its obligations under this Agreement.

11.2 All Intellectual Property Rights provided by the Customer to the Supplier for the purposes of this Agreement to deliver Services shall remain the property of the Customer but the Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable license for the sole purpose of enabling the Supplier to perform its obligations under this Agreement.

11.3 All Intellectual Property Rights in any materials created or developed by the Supplier pursuant to this Agreement or arising as a result of the provision of the Services shall vest in the Supplier. If, and to the extent, that any Intellectual Property Rights in such goods or materials vest in the Customer by operation of law, the Customer hereby assigns to the Supplier by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such Intellectual Property Rights all its Intellectual Property Rights in such in the goods or materials (with full title guarantee and free from all third-party rights).

11.4 The Supplier hereby grants the Customer:

11.4.1 a perpetual, royalty-free, irrevocable, non-exclusive license (with a right to sub-license) to use all Intellectual Property Rights in the materials created or developed pursuant to this Agreement and any Intellectual Property Rights arising as a result of the provision of the Services; and

11.4.2 a perpetual, royalty-free, irrevocable and non-exclusive license (with a right to sub-license) to use:

11.4.2.1 any Intellectual Property Rights vested in or licensed to the Supplier on the date of this Agreement; and

11.4.2.2 any Intellectual Property Rights created during the Term but which are neither created or developed pursuant to this Agreement nor arise as a result of the provision of the Services, including any modifications to or derivative versions of any such Intellectual Property Rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of this Agreement including the Services provided.

11.5 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Goods or Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

- 11.6 The Parties shall not, and shall procure that the Staff shall not, (except when necessary for the performance of the Agreement) without prior Approval, use or disclose any other Parties IPRs to any third party.
- 11.7 Prior to using any third-party IPR, the Supplier shall ensure that they have all necessary third-party licenses to enable them to use the third-party Intellectual Property Rights to carry out its obligations under the Agreement.
- 11.8 Where the Supplier is granted Approval by the Customer to use the third-party rights, the Supplier shall procure that the owner of the third-party rights grants to the Customer a license upon the terms informed to the Customer when seeking the Approval.
- 11.9 The Supplier shall provide details of any third-party licenses required on request to deliver the Services, including licenses relating to software or hardware supplied by the Supplier shall be set out in the order form and as supplied by the Supplier to the Customer prior to acceptance of the same.
- 11.10 If there is an IPR claim, the Supplier indemnifies the Customer and each Customer against all losses, damages, costs or expenses (including professional fees and fines) incurred as a result. The Supplier will have sole control over defending any claim.

12. Governance and Records

12.1 The Supplier shall:

12.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and

12.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.

12.2 The Supplier shall keep and maintain until 6 years after the end of this Agreement, or as long a period as may be agreed between the Parties, full and accurate records of this Agreement including the Goods or Services supplied under it and all payments made by the Customer. The Supplier shall on request afford the Customer or the Customer's representatives such access to those records as may be reasonably requested by the Customer in connection with this Agreement.

13. Confidentiality, Transparency and Publicity

13.1 Subject to **clause 13.2**, each Party shall:

13.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

13.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under this Agreement.

13.2 Notwithstanding **clause 13.1**, a Party may disclose Confidential Information which it receives from the other Party:

- 13.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;
- 13.2.2 to its auditors or for the purposes of regulatory requirements;
- 13.2.3 on a confidential basis, to its professional advisers;
- 13.2.4 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute a criminal offence under the Bribery Act 2010;
- 13.2.5 where the receiving Party is the Supplier, to the Staff on a need-to-know basis to enable performance of the Supplier's obligations under this Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this **clause 13.2.5** shall observe the Supplier's confidentiality obligations under this Agreement; and
- 13.2.6 where the receiving Party is the Customer:
 - (a) on a confidential basis to the employees, agents, consultants and contractors of the Customer;
 - (b) on a confidential basis to any Public Sector Authority, any successor body to a Public Sector Authority or any company to which the Customer transfers or proposes to transfer all or any part of its business
 - (c) to the extent that the Customer (acting reasonably) deems disclosure necessary or appropriate in the course of carrying out its public functions; or
 - (d) in accordance with **clause 14**.

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this **clause 13**.

- 13.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish this Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to this Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of this Agreement is exempt from disclosure in accordance with the provisions of the FOIA.
- 13.4 The Supplier shall not and shall take reasonable steps to ensure that the Staff shall not, make any press announcement, social media announcement, or publicise this Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer.

14. Freedom of Information

- 14.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations 2004 and shall:

- 14.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA and the Environmental Information Regulations 2004;
 - 14.1.2 transfer to the Customer all Requests for Information relating to this Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - 14.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - 14.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 14.2 The Supplier acknowledges that the Customer may be required under the FOIA and the Environmental Information Regulations 2004 to disclose Information concerning the Supplier or the Goods or Services without consulting or obtaining consent from the Supplier.
- 14.3 In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 14.4 Notwithstanding any other provision in this Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Goods or Services is exempt from disclosure in accordance with the FOIA and/or the Environmental Information Regulations 2004.

15. Data Protection and Security of Data

15.1 Each Party shall appoint a single point of contact (SPoC) who will work together to reach agreement regarding any issues arising from the data sharing. The points of contact for each of the Parties are:

- a) WYFRS Ekemena Owhekugbe – Ekemena.owhekugbe@westyorksfire.gov.uk
- b) Supplier *TBC on award – Supplier to insert details*

Provided that each Party shall be entitled to substitute its SPoC by giving reasonable notice in writing to the other Party.

15.2 The parties acknowledge that for the purposes of the Data Protection Legislation, the Customer is the Controller and the Supplier is the Processor. The Data Protection Schedule sets out the scope, nature and purposes of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.

15.3 Without prejudice to the generality of clause 15.2, the Supplier shall, in relation to any Personal Data processed in connection with the performance by the Supplier of its obligations under this agreement:

- 15.3.1 process that Personal Data only on the documented written instructions of the Customer which are set out in the Data Protection Schedule unless the Supplier is required by Domestic or EU Law to otherwise process that Personal Data. Where the Supplier is relying on Domestic Law or EU Law as the basis for processing Personal Data, the Supplier shall promptly notify the Customer of this before performing the processing required by the Domestic or EU Law unless the Domestic Law or EU Law prohibits the Supplier from so notifying the Customer;
- 15.3.2 ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Customer, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its 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 technical and organisational measures adopted by it);
- 15.3.3 ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- 15.3.4 not transfer any Personal Data outside of the UK or EEA unless the prior written consent of the Customer has been obtained and the following conditions are fulfilled:
- (i) the Customer and the Supplier has provided appropriate safeguards in relation to the transfer;
 - (ii) the data subject has enforceable rights and effective legal remedies;
 - (iii) the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
 - (iv) the Supplier complies with reasonable instructions notified to it in advance by the Customer with respect to the processing of the Personal Data;
- 15.3.5 assist the Customer, at the Customer's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
- 15.3.6 notify the SPoC without undue delay on becoming aware of a Personal Data Breach;

- 15.3.7 at the written direction of the Customer, delete or return Personal Data and copies thereof to the Customer on termination of the agreement unless required by Domestic Law or EU Law to store the Personal Data; and
- 15.3.8 maintain complete and accurate records and information to demonstrate its compliance with this clause 15 and allow for audits by the Customer or the Customer's designated auditor and immediately inform the Customer if, in the opinion of the Supplier, an instruction infringes the Data Protection Legislation.
- 15.3.9 data and information must be stored in an appropriately secure network folder with access on a need-to-know basis and sent and received using encrypted email/files. Specific security arrangements will be agreed where appropriate.
- 15.4 The Customer does not consent to the Supplier appointing any third-party processor of Personal Data under this agreement.
- 15.5 In regard to Data Subject Rights, the Parties shall provide each other with reasonable assistance to enable them to comply with requests and respond to queries and complaints from Data Subjects. The SPoCs are responsible for maintaining a record of individual requests for information, the decisions made and any information that was exchanged.
- 15.6 Either party may, at any time on not less than 30 (thirty) days' notice, revise this clause 15 by replacing it with any applicable controller to processor standard clauses or similar terms adopted under the Data Protection Legislation or forming part of an applicable certification scheme (which shall apply when replaced by attachment to this agreement).

16. Liability

- 16.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.
- 16.2 Subject always to **clauses 16.3 and 16.4**:
- 16.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of this Agreement, the supply or failure to supply of the Goods or Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to **125%** of the total Charges paid or payable to the Supplier; and
- 16.2.2 except in the case of claims arising under **clause 20.4.3**, in no event shall the Supplier be liable to the Customer for any:
- (a) loss of profits;
 - (b) loss of business;
 - (c) loss of revenue;
 - (d) loss of or damage to goodwill;
 - (e) loss of savings (whether anticipated or otherwise); and/or

(f) any indirect, special or consequential loss or damage.

16.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

16.3.1 death or personal injury caused by its negligence or that of its Staff;

16.3.2 fraud or fraudulent misrepresentation by it or that of its Staff;

16.3.3 any breach of obligations implied by Section 2 of the Supply of Goods and Services Act 1982; or

16.3.4 any other matter which, by law, may not be excluded or limited.

16.4 The Supplier's liability under the indemnity in **clause 20.4.3** shall be unlimited.

16.5 During the term of this Agreement and for a period of [6] years after the expiry or termination of this Agreement, the Supplier shall maintain in force, with a reputable insurance company:

16.5.1 employer's liability insurance in accordance with legal requirements for the time being in force and in any event for not less **ten million pounds (£10,000,000)**;

16.5.2 professional indemnity insurance at an amount not less than **two million pounds (£2,000,000)**;

16.5.3 public liability insurance at an amount not less than **five million pounds (£5,000,000)**;

16.5.4 product liability insurance at an amount not less than **five million pounds (£5,000,000)**;

to cover the liabilities that may arise under or in connection with this Agreement and shall produce to the Customer on request both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance. The Supplier must ensure adequate insurance provision is maintained to required levels at all times during the term of the Agreement.

16.6 The Supplier will indemnify the Customer against any costs resulting from any Default by the Supplier relating to any applicable Law.

17. Force Majeure

17.1 Provided that it has complied with clause 17.3, if a party is prevented, hindered or delayed in or from performing any of its obligations under this Agreement by a Force Majeure Event (**Affected Party**), the Affected Party shall not be in breach of this Agreement or otherwise liable for any such failure or delay in the performance of such obligations. The time for performance of such obligations shall be extended accordingly.

17.2 The corresponding obligations of the other party will be suspended, and the time for performance of such obligations extended, to the same extent as those of the Affected Party.

17.3 The Affected Party shall:

17.3.1 as soon as reasonably practicable after the start of the Force Majeure Event but no later than five (5) days from its start, notify the other party in writing of the Force Majeure Event, the date on which it started, its likely or potential duration,

and the effect of the Force Majeure Event on its ability to perform any of its obligations under the Agreement; and

- 17.3.2 use all reasonable endeavours to mitigate the effect of the Force Majeure Event on the performance of its obligations.
- 17.3.3 If the Force Majeure Event prevents, hinders or delays the Affected Party's performance of its obligations for a continuous period of more than eight (8) weeks, the party not affected by the Force Majeure Event may terminate this agreement by giving four (4) weeks' written notice to the Affected Party.

18. Termination

18.1 The Customer may terminate this Agreement to supply:

- 18.1.1 Goods in whole or in part before delivery or after delivery (where only parts of the Goods have been delivered) by written notice to the Supplier with immediate effect or;
- 18.1.2 Services at any time by notice in writing to the Supplier to take effect on any date falling at least **1 month (or, if the initial Agreement is less than 3 months in duration, then at least 10 Working Days)** later than the date of serving the relevant notice;
- 18.1.3 where (without prejudice to **clause 18.1.7**), the Supplier is in material breach of any obligation under this Agreement which is not capable of remedy;
- 18.1.4 where the Supplier repeatedly breaches any of the terms and conditions of this Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms and conditions of this Agreement;
- 18.1.5 where the Supplier is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 calendar days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
- 18.1.6 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
- 18.1.7 breaches any of the provisions of **clauses 9.2, 13, 14, 15 and 19**;
- 18.1.8 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier's assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this **clause 18.1.8**) in consequence of debt in any jurisdiction; or
- 18.1.9 fails to comply with legal obligations in the fields of environmental, social or labour law.

- 18.2 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in **clause 18.1.6** or any potential such change of control.
- 18.3 The Supplier may terminate this Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 90 days of them falling due.
- 18.4 Termination or expiry of this Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and **clauses 1, 3.2, 7.1, 7.2, 7.6, 7.7, 8, 12.2, 14, 15, 16, 17, 18, 20.4.3, 22** and **23.7** or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 18.5 The Customer shall have the right to terminate this Agreement at any time for any reason by giving the Supplier no less than (3) months' prior written notice.
- 18.6 Upon termination or expiry of this Agreement, the Supplier shall:
- 18.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Goods or Services; and
 - 18.6.2 return all requested documents, information and data to the Customer as soon as reasonably practicable.

19. Compliance

- 19.1 The Supplier shall perform its obligations under this Agreement (including those in relation to the Goods) in accordance with:
- 19.1.1 all Applicable Laws regarding health and safety; and
 - 19.1.2 the Customer's health and safety policy (as provided to the Supplier from time to time) whilst at the Customers' Premises; and
- 19.2 Each party shall promptly notify the other as soon as possible of any health and safety incidents or material health and safety hazards at the Customer premises of which it becomes aware and which relate to or arise in connection with the performance of this Agreement.
- 19.3 While on the Customer premises, the Supplier shall comply with any health and safety measures implemented by the Customer in respect of Supplier Personnel and other persons working there and any instructions from the Customer on any necessary associated safety measures.
- 19.4 The Supplier shall:
- 19.4.1 comply with the reasonable requirements of the Customer's security arrangements;
 - 19.4.2 comply with all the Customer's health and safety measures while on the Customer's premises; and
 - 19.4.3 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under this Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

- 19.4.4 perform its obligations under this Agreement in accordance with all applicable equality Law and the Customer's equality and diversity policy as provided to the Supplier from time to time; and
- 19.4.5 take all reasonable steps to secure the observance of **clause 19.4.2** and **19.4.4** by all Staff.
- 19.4.6 ensure adequate Business Continuity arrangements are in place and are regularly reviewed.

19.5 The Supplier shall supply the Goods and Services in accordance with the Customer's environmental policy as provided to the Supplier from time to time.

19.6 Goods shall be packed and marked in a proper manner and in accordance with any statutory requirements and any requirements of the carriers. All packaging materials shall be considered non-returnable. The Supplier shall indemnify the Customer against all actions, suits, claims, demands, losses, charges, costs and expenses which the Customer may suffer or incur as a result of, or in connection with, any breach of this **clause 19.6**.

20. Prevention of Fraud and Corruption

20.1 The Supplier shall:

- 20.1.1 comply with all Applicable Laws, statutes and regulations relating to anti-bribery and anti-corruption, including but not limited to the Bribery Act 2010 (the Relevant Requirements);
- 20.1.2 not commit any Prohibited Act or engage in any activity, practice or conduct that would constitute a Prohibited Act by it, or the Customer if such activity, practice or conduct had been carried out in the United Kingdom;
- 20.1.3 devise, implement and enforce throughout the Term its own written policies and procedures, including adequate procedures under the Bribery Act 2010, in order to ensure compliance by:
 - (a) the Supplier;
 - (b) the Supplier Personnel; and
 - (c) any other associated persons of the Supplier,

with the Relevant Requirements as set out in this clause, and the Supplier shall produce to the Customer copies of such written policies and procedures within 7 days of signature of this Agreement and at any time upon request by the Customer;

20.1.4 promptly report to the Customer any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Agreement;

20.1.5 immediately notify the Customer in writing if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier, and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement;

- 20.1.6 within two (2) months of the Commencement Date, and annually thereafter, certify to the Customer in writing signed by an officer of the Supplier, compliance with this clause 20.1 by the Supplier and all persons associated with it under clause 20.2. The Supplier shall provide such supporting evidence of compliance as the Customer may reasonably request.
- 20.2 The Supplier shall ensure that any person associated with the Supplier who is providing the Goods and in connection with this Agreement does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause 20 (the **Relevant Terms**), the Supplier shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to the Customer for any breach of the Relevant Terms, and shall be directly liable to the Customer for any breach by such persons of any of the Relevant Terms.
- 20.3 If the Supplier (including any member of the Supplier's Personnel, Sub-contractor, third party or agent, in all cases whether or not acting in the Supplier's knowledge) engages in conduct prohibited by this clause 26 or commits any offence under the Bribery Act 2010, the Customer may:
- 20.3.1 terminate this Agreement with immediate effect and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Customer throughout the remainder of the Term; or
 - 20.3.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of the conditions set out in this clause.
- 20.4 For the purposes of this clause 20.4:
- 20.4.1 the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), sections 6(5) and 6(6) of that Act and section 8 of that Act respectively;
 - 20.4.2 a person associated with the Supplier includes but is not limited to any Sub-contractor or third party of the Supplier; and
 - 20.4.3 Prohibited Act means any of the following:
 - (a) offering, giving or agreeing to give to the Customer or any other public body or any person employed by or on behalf of the Customer or any other public body any gift or consideration of any kind as an inducement or reward;
 - (b) for doing, refraining from doing, or for having done or refrained from doing, any act in relation to the obtaining or execution of this Agreement, or any other agreement with the Customer or any other public body; or
 - (c) for showing or refraining from showing favour or disfavour to any person in relation to this Agreement or any such agreement;

- (d) paying commission or agreeing to pay any commission to the Customer or any other public body or any person employed by or on behalf of the Customer, or any other public body in connection with this Agreement, or any other agreement with the Customer, or any other public body or person employed by or on behalf of the Customer, or any other public body; or
- (e) committing any offence:
 - (i) under the Bribery Act 2010; or
 - (ii) under any Applicable Laws creating offences in respect of fraudulent acts; or
 - (iii) at common law in respect of fraudulent acts,

in relation to this Agreement, or any other agreement with the Customer, or any other public body or person employed by or on behalf of the Customer, or any other public body.

- 20.5 The Supplier shall take all reasonable steps, in accordance with Good Industry Practice, to prevent fraud by Supplier Personnel and the Supplier (including its shareholders, members, directors) in connection with the receipt of monies from the Customer.
- 20.6 The Supplier shall notify the Customer immediately if it has reason to suspect that any fraud in relation to any agreements with the Customer has occurred or is occurring or is likely to occur.
- 20.7 If the Supplier or Supplier Personnel commits fraud in relation to this Agreement or any contract with the Customer, the Customer may:
 - 20.7.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Goods and any additional expenditure incurred by the Customer throughout the remainder of the Term; or
 - 20.7.2 recover in full from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

21. Discrimination

- 21.1 The Supplier shall not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination (whether in race, gender, religion, disability, sexual orientation, age or otherwise).
- 21.2 The Supplier shall comply with the Modern Slavery Act 2015.
- 21.3 The Supplier undertakes, warrants and represents that neither the Supplier nor any of its officers, employees, agents or Sub-Contractors has:
 - 21.3.1 committed an offence under the Modern Slavery Act 2015 (a “MSA Offence”);
 - 21.3.2 been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;

21.3.3 is aware of any circumstances within its supply chain that could give rise to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015;

21.4 The Supplier shall notify the Customer immediately in writing if it becomes aware of has reason to believe that it, or any of its officers, employees, agents or Sub-Contractors have, breached the Modern Slavery Act 2015.

21.5 The supplier shall adhere to the WYFRS whistle-blowing policy and there should be no discrimination against whistle-blowers.

22. Dispute Resolution

22.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with this Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

22.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in **clause 22.1**, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the “**Mediator**”) serving of a written notice to proceed to mediation (a “**Mediation Notice**”). All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

22.3 If a Mediation Notice is served, the parties shall attempt to resolve the Dispute in accordance with the CEDR Model Mediation Procedure which shall be deemed to be incorporated by reference into this Agreement.

22.4 If the parties are unable to agree on the joint appointment of a mediator within thirty (30) Working Days from service of the Mediation Notice then either party may apply to CEDR to nominate the mediator.

22.5 If the parties are unable to reach a settlement in the negotiations at the mediation, and only if the parties so request and the mediator agrees, the mediator shall produce for the parties a non-binding recommendation on terms of settlement. This shall not attempt to anticipate what a court might order but shall set out what the mediator suggests are appropriate settlement terms in all of the circumstances.

22.6 Any settlement reached in the mediation shall not be legally binding until it has been produced in writing and signed by, or on behalf of, the parties. The mediator shall assist the parties in recording the outcome of the mediation.

23. General

23.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licenses and permissions to enter into and perform its obligations under this Agreement, and that this Agreement is executed by its duly authorised representative.

23.2 A person who is not a party to this Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.

- 23.3 This Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 23.4 This Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The Parties confirm that they have not entered into this Agreement on the basis of any representation that is not expressly incorporated into this Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 23.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of this Agreement shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 23.6 This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 23.7 Except as otherwise expressly provided by this Agreement, all remedies available to either Party for breach of this Agreement (whether under this Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 23.8 If any provision of this Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

24. Notices

- 24.1 Any notice to be given under this Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to **clause 24.3**, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that Party may from time to time notify to the other Party in accordance with this clause:
- 24.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise, delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.
- 24.3 Notices under **clause 17** (Force Majeure) and **clause 18** (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in **clause 24.1**.

25. Governing Law and Jurisdiction

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with this Agreement or its subject matter or formation.

Signatures

Supplier

Print Name	
Signature of Supplier	
Date	

West Yorkshire Fire and Rescue Service

Print Name	
Signature of WYFRS	
Date	

Note: Counter signature only required for contract value over £75,000 – for contract value less than £75,000 please delete counter signatory

Print Name	
Counter Signature of WYFRS (if not applicable please delete)	
Date	

Data Protection Schedule

PROCESSING, PERSONAL DATA AND DATA SUBJECTS (if applicable)

The Processing of the Personal Information taking place under this Agreement includes that which is set out in the following description.

Controller	West Yorkshire Fire & Rescue Authority
Processor	Supplier Address, Postcode Data Protection Officer: Name and e-mail address
The subject matter of the Processing is:	Describe below, personal data relating to individuals benefitting from obligations performed by the Supplier under the Agreement.
The nature and purpose of the Processing is:	Describe below: Processing of personal data relating to (insert description of whose personal data will be processed) is conducted to enable the Supplier to perform its obligations under this Agreement and shall include, but shall not be limited to, the following types of Processing: <ul style="list-style-type: none"> • collection; • recording; • organisation; • structuring; • storage; • adaptation or alteration; • retrieval; • consultation; and • use.
The duration of the Processing is:	The Processing will last for the duration of the Agreement and for such period after the expiry or termination of the Agreement to allow the Supplier to comply with its legal obligations and return or delete the personal data in accordance with the Agreement. Include the length of time the supplier will process data for.
The categories of Personal Data being Processed is:	This section should include a list of personal data being processed, for example: Name, Address, DOB, Contact Details, NI, the Authority Account details, IP Address, Nationality, and Health Data etc. It should be separated into personal data and special category personal data. Example: The personal data Processed by the Supplier under this Agreement relates to [insert who it relates to – and comprises the following types of personal data: <p>Personal Data</p> <ol style="list-style-type: none"> 1. name; 2. contact details including address, telephone number and email address; 3. date of birth; 4. national insurance number; 5. authority account details 6. IP address

	<p>7. [include any other personal data processed]</p> <p>Special Category Personal Data</p> <ol style="list-style-type: none"> 1. racial or ethnic origin; and 2. health data. <p>[please also list any other special categories of personal data processed, for example: political opinions, religious or philosophical beliefs, trade union membership, genetic data, biometric data for the purpose of uniquely identifying an individual and sex life or sexual orientation.]</p> <p>Personal Information Definition; Any information relating to an identified or identifiable natural person.</p> <p>Special Categories of Personal Information; Personal information that consists of information with regard to racial or ethnic origin; political opinions; physical or mental health or condition; sexual life; genetic data" and "biometric data etc.</p>
<p>The categories of Data Subjects include:</p>	<p>This section should include a list of categories of Data Subjects, for example;</p> <ol style="list-style-type: none"> 1. Colleagues; 2. Customers; 3. Customer Representatives; 4. Agency Staff; 5. Suppliers; 6. Enquirers; 7. Complainants etc. <p>Definition; A Data Subject is an individual whom the particular personal information is about.</p>

ICT Special Terms Schedule

Definitions

The terms and expressions used in this ICT Special Terms and Conditions schedule shall have the meanings set out below:

“Acceptance Date”	shall be the date certified by the Authorised Officer as the date when the Software or Services passed the Acceptance Tests in accordance with the Agreement.
“Acceptance Certificate”	shall mean the certificate referred to in Clause 5.1.
“Acceptance Tests”	shall mean such tests as specified as to be agreed by the Parties within 28 days of the date of this Agreement or such other date as agreed between the Parties as necessary during the Contract Period.
“Change Control Procedure”	shall mean the procedure in the Change Control Schedule and annex 1 thereto.
“Customer Data”	shall mean (a) the data, text, drawings, images or sounds which are embodied in any electronic, magnetic optical or tangible media which is supplied to the Supplier or which the Supplier is required to generate, store, process or transmit pursuant to this Agreement or (b) any Personal Data.
“Data Loss”	shall mean any event or any incident involving the actual or potential loss of Customer Data that could lead to identity fraud or have other significant impact on individuals and /or is likely to have a detrimental commercial impact on the Customer and shall include situations where the Customer believes that others have gained unauthorised access to Customer Data.
“Delay”	shall mean the period of time by which any requirement of the Agreement or the Specification or the Services is delayed.
“Detailed Implementation Plan”	shall mean the detailed Implementation Plan referred to in clause 3.3 and drafted by the Supplier and which the Customer has approved in writing following its approval of the Outline Implementation Plan and which may be updated from time to time subject always to approval in writing by the Customer.
“Disaster”	shall mean the occurrence of one or more events which either separately or together mean that the Services or a material part of the Services shall be unavailable for a period of 4 hours or more or which is reasonably anticipated will mean that Services will be unavailable for that period.

“Documentation”	shall mean descriptions of the Services and details of the Software design and development information, technical specifications of all functionality, configuration details and shall include build instructions, test instructions, test scripts, test data, operating instructions, training material and other documents and tools necessary for maintaining and supporting the Software.
“Exit Plan”	shall mean the plan drawn up by the Supplier in accordance with the tender.
“Outline Implementation Plan”	shall mean the outline Implementation Plan referred to in clause 3.3 and drafted by the Supplier after the Customer has given its approval in writing.
“Project Results”	shall mean all products designed, developed, written or prepared by the Supplier in respect of the Services and all related documentation including but not limited to any specification, graphics, programs, data, reports, and all other deliverables, written results or computer output produced in the course of providing the Services.
“Proprietary Rights”	shall mean all Intellectual Property Rights including but not limited to copyrights, database rights, patents, design rights, trademarks and trade secrets.
“Rectification Plan”	shall mean the plan prepared by the Supplier pursuant to clause 17.6.
“Rectification Procedure”	shall mean the procedure in clause 17.
“Security Policy”	shall mean the security policies of the Customer in force from time to time.
“Services”	shall have the meaning given in the Terms and Conditions of Contract but shall also include the Software where the context so requires.
“Software”	shall mean any software provided by the Supplier to provide the Services and includes specially written software created by the Supplier for the purposes of the Services or by a third party on behalf of the Supplier or third-party software.

Standard of Services

1.1 The Supplier acknowledges that it:

- 1.1.1 has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Customer; and

- 1.1.2 has raised all relevant due diligence questions with the Customer before the Commencement Date of the Agreement.
- 1.2 Without prejudice to the generality of Clause 1.1 the Supplier warrants that:-
- 1.2.1 the Services shall be fit for the purpose of providing the requirements of the Customer;
 - 1.2.2 the Services are free from defects at the time of completion;
 - 1.2.3 the Supplier owns, has obtained or will obtain valid licences of all Proprietary Rights which are necessary to the performance of its obligations under the Agreement;
 - 1.2.4 the Supplier has the full capacity and authority to grant, or to procure the grant of, all licences for the Software provided pursuant to this Agreement;
 - 1.2.5 the Software used by the Supplier shall be the currently supported version of the Software and shall perform in all material respects in accordance with the Specification;
 - 1.2.6 it shall be the Supplier's obligation to provide and perform all that is necessary to ensure the installation and implementation and acceptance of the Software and the satisfactory performance and provision of the Services for the Price;
 - 1.2.7 the Supplier is aware that the Customer is specifically relying on the skill and expertise of the Supplier in supplying the Services and that the Supplier has all the necessary skill and knowhow to enable the Supplier to perform the Services;
 - 1.2.8 the Supplier is aware that the Customer is specifically relying on the Supplier's skill and expertise in designing and managing the Services and that the Supplier has all the necessary skill and knowhow to enable the Supplier to perform the Services and make such recommendations;
 - 1.2.9 the Supplier shall provide suitably qualified personnel to carry out the Services and related tasks and where personnel have been nominated to the Customer to make those personnel available to perform the Services and inform the Customer of any changes to those personnel;
 - 1.2.10. the Supplier shall provide the Services in a timely and efficient manner and to a professional standard in accordance with any time schedules stipulated by the Customer and which will conform to Good Industry Standards generally observed for similar services;
 - 1.2.11 the Supplier shall co-operate with Customer employees and other independent consultants where this is necessary for the performance of the Services; and
 - 1.2.12. the Project Results so far as they do not comprise material originating from or for the benefit of the Customer, are original works created by the Supplier, and the use or possession of them by the Customer will not subject the Customer to any claim for infringement of any Proprietary Rights of any third party; and
 - 1.2.13. the Supplier shall provide Documentation as necessary to a standard to enable the Customer and its employees to efficiently receive the Services, understand the Software and perform its functions and train its users.

2 Mistakes in Information

- 2.1 The Supplier shall be responsible for and shall pay extra costs occasioned by any discrepancies, errors or omissions in drawings, documentation or other information supplied in writing by it, whether they have been approved by the Customer or not.
- 2.2 In addition, the Customer shall be entitled to recover all reasonable costs directly occasioned by the Customer carrying out repetitive or additional work as a result of the Supplier failing to provide accurate drawings, documentation, designs, plans or other written information upon which the Customer has relied in order to implement the Services or any matters related to the Services such as the procurement and implementation of hardware.

3 Installation and Performance

- 3.1 Clause 2.1 of the Agreement (Basis of Agreement) shall be amended to read that timely supply of the Services shall not be of the essence of the Agreement, but the Supplier shall install and implement the Software by the date(s) notified to the Supplier by the Customer.
- 3.2 The Supplier shall perform the Services by any date(s) given to it by the Customer and Clause 18.1 (Termination) shall apply accordingly for any failure to perform Services in accordance with this clause.
- 3.3 The Supplier shall draft an Outline Implementation Plan and submit such Outline Implementation Plan to the Customer for approval in writing. Following approval of the Outline Implementation Plan the Supplier shall proceed to draft a Detailed Implementation Plan for approval in writing by the Customer. The Detailed Implementation Plan shall be updated as required by the Customer from time to time and shall always be subject to approval in writing by the Customer.
- 3.4 The Customer may decline to give its approval to the Outline Implementation Plan or the Detailed Implementation Plan as the case may be and refer either the Outline Implementation Plan or the Detailed Implementation Plan as the case may be to the Supplier for correction or amendment in accordance with instructions from the Customer.
- 3.5 The procedure in clauses 3.3 and 3.4 shall be followed until the Customer has given its approval in writing to the Outline Implementation Plan or the Detailed Implementation Plan.

4 Acceptance

- 4.1 Following implementation of the Services, the Supplier in consultation with the Customer, shall perform Acceptance Tests to ensure that the Software and related Services perform to the Specification.
- 4.2 The Acceptance Tests shall be recorded as successful and the Supplier notified accordingly where the Software and/or related Services perform to the satisfaction of the Customer.
- 4.3 The Acceptance Tests shall be recorded as unsuccessful and the Supplier notified accordingly where the Software and/or related Services do not perform to the satisfaction of the Customer.
- 4.4 If the initial Acceptance Tests fail, repeat tests shall be carried out within a reasonable time upon the same terms and conditions but at the sole expense of the Supplier. In the event that the repeat tests (not being fewer than two if required) fail, the Supplier shall provide free of

charge such additional or replacement hardware, Software and Services as may be necessary to enable the Acceptance Tests to be successful. If after the further repeat tests (not being fewer than two if required) the Acceptance Tests still fail, the Customer may elect either: -

- 4.4.1 to accept and retain such of the Software and/or related Services performed as it may consider expedient at such reduced price as may be agreed between the Customer and the Supplier; or
- 4.4.2 to reject the Software or related Services entirely or the parts thereof that have failed the Acceptance Tests and, on such election, all applicable monies paid by the Customer to the Supplier shall be returned

and in either of the above cases the remedy is without prejudice to any other remedy available to the Customer in respect of any loss or expense to the Customer arising in consequence.

- 4.5 The Supplier acknowledges that, in respect of any failed Acceptance Tests the Customer may require the Supplier to perform the failed Acceptance Tests and any other Acceptance Tests that are dependent on the failed Acceptance Tests, regardless of whether an Acceptance Certificate has already been issued by the Customer in respect of the dependent part.
- 4.6 The Acceptance Tests shall not fail due to minor defects (meaning defects that do not materially affect functionality of the Software) provided always that the Supplier shall notify the Customer of such minor defects and remedy the same within a reasonable time.
- 4.7 In the event that the Customer exercises its option to reject the Software or related Services or any part thereof, the risk in the Software or Services or any rejected part thereof shall pass back from the Customer to the Supplier at the time of such rejection.
- 4.8 The Supplier shall provide such assistance as the Customer requires in relation to the conducting of the Acceptance Tests.

5 Acceptance Certificate

- 5.1 As soon as the Software and related Services have been implemented and have passed the Acceptance Tests, the Authorised Officer shall issue an Acceptance Certificate which shall state the Acceptance Date and any outstanding defects in the Software and related Services, such issue not to be unreasonably withheld or delayed.

6 Proprietary Rights

- 6.1. Save for any alternative written agreement between the Parties, the Supplier acknowledges that all Proprietary Rights in the Project Results shall at all times and for all purposes vest and remain vested in the Customer subject to any third-party Proprietary Rights. Notwithstanding the foregoing, all Proprietary Rights which the Supplier might otherwise acquire as a result of its performance of the Services are hereby irrevocably assigned to the Customer.
- 6.2 Save for any alternative written agreement between the Parties, the Customer may authorise the Supplier to use the Project Results and/or the Proprietary Rights in the Project Results under licence from the Customer.

- 6.3 At the termination of the Agreement the Supplier shall at the request of the Customer immediately return to the Customer all materials, work, records or other information or data held in relation to the Services, including any back-up media.

7 Documentation

- 7.1 The Supplier shall provide to the Customer all Documentation in hard or soft format as required by the Customer and reasonably necessary to enable the Customer and its employees to efficiently receive the Services, understand the Software and perform its functions and train its users. The Supplier shall update and replace where appropriate all Documentation throughout the Agreement Period.
- 7.2 The Supplier shall grant the Customer and any other third party as is so required by the Customer a royalty free perpetual and transferable licence in respect of the Documentation in hard or soft format referred to in clause 7.1 to enable either the Customer or a third party to reproduce the Documentation for purposes related to the Software or the Services.

8 Professional Services

- 8.1 The Supplier shall provide implementation and training as set out in the Specification or the Project Plan and shall be performed at a location as instructed by the Customer.

9 Customer Data

- 9.1 The provisions of this clause 9 shall be applied in consultation with, and with the agreement of, the Customer's nominated data security officer(s) and shall relate to situations where inter alia:
- 9.1.1 the Supplier is in direct or indirect control or possession of Customer Data as a result of the Services involving any element of hosting, including storage or processing of Customer Data whether for production, training or testing purposes, on equipment not within the direct control of the Customer;
 - 9.1.2 the Supplier is in direct control of Customer Data as a result of the Services requiring its employees or those of its sub-contractors to work on systems within the direct control of the Customer.
- 9.2 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Customer Data.
- 9.3 The Supplier shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Supplier of its obligations under this Agreement or as otherwise authorised in writing by the Customer.
- 9.4 To the extent that Customer Data is held and/or processed by the Supplier the Supplier shall solely at its own expense supply that Customer Data to the Customer as requested by the Customer and in the format specified by the Customer.
- 9.5 The Supplier shall take responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data at all times that the relevant Customer Data is under the Supplier's control or the control of any sub-contractor.

- 9.6 If the Services shall involve any element of hosting, the Supplier shall perform secure backups of all Customer Data and shall ensure that up to date back-ups are stored offsite but available to the Customer at all times upon request.
- 9.7 The Supplier shall ensure that any system on which it holds any Customer Data, including back-up data, is a secure system and meets the requirements of the Customer's Security Policy in force from time to time.
- 9.8 If any Customer Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Customer may:
- 9.8.1 require the Supplier (at the Supplier's expense) to restore or procure the restoration of Customer Data to the extent and in accordance with the requirements specified by the Customer and the Supplier shall do so as soon as practicable but not later than the time specified for doing so by the Customer; and/or
 - 9.8.2 itself restore or procure the restoration of Customer Data and shall be repaid by the Supplier any reasonable expenses incurred in doing so.
- 9.9 If at any time the Supplier suspects or has reason to believe that any Customer Data has or may become corrupted, lost or sufficiently degraded in any way for any reason or has been subject to Data Loss or has been or may be subject to unauthorised or malicious access by a third party or an attempt by a third party for unauthorised or malicious access, the Supplier shall notify the Customer immediately and inform the Customer of the remedial action the Supplier proposes to take. The Customer may require the Supplier to carry out actions in accordance with any relevant policy or procedure of the Customer (as an alternative or in addition to the Supplier's actions under this clause 9.9) in respect of any notification in accordance with this clause 9.9.
- 9.10 The Supplier shall comply with the Security Policy in force from time to time and notified to the Supplier on or before the Commencement Date and shall notify the Customer of any changes to the Services or the Software which may affect compliance with the Security Policy. Any such changes shall be submitted to the Customer and shall be approved by the Customer in accordance with the Change Control Procedure.
- 9.11 Subject to clause 9.12 at the end of the Agreement Period or upon earlier termination and at its own expense the Supplier shall return to the Customer any Customer Data in its possession or in the possession of sub-contractors howsoever held or stored and shall make such arrangements as are necessary to ensure that it nor its sub-contractors neither retains nor stores the Customer Data after the end of the contract period and shall complete the obligation in this clause 9.11 within three (3) months of the end of the contract period and at the end of the three month period referred to in this clause 9.11 shall confirm to the Customer that it has complied with its obligations in this clause 9.11 .
- 9.11A The Supplier and the Customer shall agree a transferable and accessible format in which the Customer Data is to be returned to the Customer in accordance with clause 9.11 above to be set out in the Exit Plan.
- 9.12 In the event that the Supplier shall not be able to comply with Special Condition 9.11 the Supplier shall notify the Customer within the three (3) month period referred to in clause 9.11 and shall instead confirm in writing that the Supplier at no cost to the Customer:

- 9.12.1 shall not use, nor attempt to use, the Customer Data to inform any decision in respect of any individual or in a manner which affects that individual in any way;
 - 9.12.2 shall not permit any other organisation access to the Customer Data;
 - 9.12.3 shall ensure the Customer Data is subject to appropriate technical and organisational security; and
 - 9.12.4 shall commit to the permanent deletion of the Customer Data as soon as permanent deletion becomes available and shall inform the Customer that the Customer Data has been permanently deleted.
- 9.13 If the Services shall involve any element of hosting of any Customer Data and at any time during the Contract Period or at any time thereafter the Supplier upgrades or otherwise renews hardware utilised for the purposes of the hosting element of the Customer Data the Supplier shall ensure that the hardware containing Customer Data or Personal Data is disposed of in a manner that shall not allow for accidental or malicious disclosure of the Customer Data or Personal Data.

10 Computer Virus and Security

- 10.1 The Supplier shall take all reasonable steps in accordance with IT Good Industry Practice to prevent any virus (including a Trojan Horse or Worm as those terms are commonly understood in the industry) being transferred to the Customer's IT system and shall check for and contain the spread of any such virus and minimise the impact of any such virus by using a reputable industry accepted anti-virus software program or programs and updating such program in accordance with the manufacturer's recommendations. The Supplier shall regularly review its anti-virus checking software and systems. The Supplier shall co-operate with the Customer to prevent loss of Customer Data and to restore the Services to the required operating efficiency.
- 10.2 The Supplier shall indemnify the Customer against all losses, direct and consequential damages, actions, claims, demands, proceedings, costs, charges, and expenses whatsoever in respect of a breach of Clause 10.1.
- 10.3 The Supplier shall apply current IT Good Industry Practice to avoid unauthorised access to the Customer's IT system (or the Supplier's IT system if such IT system shall be connected to the Customer's IT system). For the avoidance of doubt IT Good Industry Practice shall include using encryption where the Customer's operational data is to be transferred between remote sites and restricting access to the Customer's IT system or the Supplier's IT system only to those persons given a unique identification and password and further ensuring any unauthorised access to the Supplier's system is detected and the other party informed immediately.
- 10.4 Where the Supplier's employees shall access or may access the Customer's IT system and the Customer's IT system stores, processes or facilitates the storage and processing of data concerning persons, financial matters including bank account details or commercially sensitive data, then the Customer shall inform the Supplier of the need to employ secure socket layer (SSL) encryption technology based on industry standard public/private key algorithms for all browser based data transmissions to and from the Customer's IT system. This provision shall also apply to all such data when it is backed up in which case it shall be encrypted before it is stored.

- 10.5 If the Services shall involve any element of hosting, including storage or processing of Customer Data whether for production, training or testing purposes, on equipment not within the direct control of the Customer, the Supplier shall ensure that all computer hardware utilised in the performance of the Services under the Agreement are kept in a physically secure environment utilising industry standard Universal Resource Locator (URL) monitoring and an intrusion detection service to monitor activity behind the firewall. All back up data storage devices shall also be adequately protected against unauthorised access as set out herein.
- 10.6 The Supplier shall be familiar with the provisions of British Institutes Standard BS ISO/IEC (27002:2013) code of practice concerning IT system security and to implement IT Good Industry Practice to prevent unauthorised access to the Supplier's IT system and the Customer's IT system. Where the Supplier is non-compliant with the provisions of BS ISO/IEC (27002:2013) it shall inform the Authorised Officer forthwith in writing and shall nevertheless work to the principles of the standard. As an alternative the Customer may elect and give approval in writing to permit the Supplier to adhere to the principles of the Cyber Essentials Scheme.

11 Grant of Licence

- 11.1 The Supplier shall grant the Customer a non-exclusive term licence (including where applicable the right to load, execute, store, transmit, display and copy for the purposes of archiving, backing-up, loading, execution, storage, transmission and display) to use the Software on its standard licence terms for the purposes of using the Services. The licence shall be granted to any other third party who requires a licence to use the Software for the purpose of providing the business of the Customer or business related to the use of the Software.
- 11.2 The Supplier shall procure that where its Software is dependent on or utilises third party software that owners of the third party software grant a non-exclusive term licence (including where applicable the right to load, execute, store, transmit, display and copy for the purposes of archiving, backing-up, loading, execution, storage, transmission and display) to the Customer on the standard licence terms of the third party. A licence shall be granted to any other third party who requires a licence to use the third-party software for the purpose of providing the business of the Customer or business related to the use of the Software and the Supplier shall procure such licence(s) as are required.
- 11.3 The Supplier shall grant the Customer and any other third party as is so required by the Customer in accordance with clause 7.2 a non- exclusive and perpetual licence to reproduce or sub licence the Documentation and the technical specifications of the Software, user manuals, operating manuals, process definitions and procedures for any purpose that is connected with or otherwise incidental to the Services or the rights granted pursuant to the licence referred to in clauses 11.1 or the third party licence referred to in Clause 11.2.
- 11.4 The Customer shall be entitled to sub-licence the rights granted to the Customer pursuant to Clauses 11.1 and 11.2 to a third party provided that the sub-licence is on no broader terms than the licence granted to it by the Supplier or the third party licence and provided the licence relates to the business of the Customer or business related to the use of the Software.

- 11.5 The Customer may freely assign, novate or otherwise transfer its rights and obligations under the licence or the third-party software including to anybody (including a private sector body) which performs wholly or in part or carries on any function wholly or in part, that had previously been performed by the Customer.
- 11.6 The termination or expiry of the Agreement shall not affect the licence or the licence of the third-party software referred to in this clause 11 and the transfer or grant of a licence or the licence of third-party software may form part of the Exit Plan if so required by the Customer.
- 11.7 The Supplier shall at all times during and after the Contract Period indemnify the Customer and keep the Customer indemnified against all losses incurred or awarded against or agreed to be paid by the Customer arising from a breach of Proprietary Rights by the Supplier or any of its sub-contractors, agents, employees or contractors. The Supplier shall notify the Customer within two working days of becoming aware of a claim against it or its sub-contractors, agents, employees or contractors and shall comply with any instructions given to it by the Customer in respect of any such claim.

12 Migration

- 12.1 Upon the expiry of the Agreement the Supplier shall have formulated the Customer Data into a transferable and accessible form as agreed between the Parties in accordance with clause 9.11A (the "Transferred Customer Data") to allow the Customer Data to be transferred to and accessed by either the Customer or a Replacement Supplier as the case may be on and from the Expiry Date.
- 12.2 The Transferred Customer Data shall be complete in terms of all data fields within each and every class of Customer Data comprising the Transferred Customer Data.
- 12.3 Prior to transferring the Transferred Customer Data to either the Customer or Replacement Supplier as the case may be the Supplier shall test the Transferred Customer Data to ensure the Transferred Customer Data is accurate and complete and without errors whatsoever or howsoever arising.
- 12.4 If after complying with clause 12.3 the Supplier identifies any inaccuracies or errors in the Transferred Customer Data or finds that there is incomplete Transferred Customer Data the Supplier shall at its own cost rectify the inaccuracies or errors or incomplete Transferred Customer Data and shall do so within the timescale stipulated by the Customer.
- 12.5 If after having received the Transferred Customer Data the Customer identifies any errors or inaccuracies in the Transferred Customer Data or finds that the Transferred Customer Data is incomplete the Customer may accept and retain that part of the Transferred Customer Data that is accurate, without error and complete and reject the parts of the Transferred Customer Data that are not accurate contains errors or are incomplete. The Customer may reject the whole of the Transferred Customer Data if less than 95% of the Transferred Customer Data is accurate, without error and complete.
- 12.6 If the Customer rejects all or any part of the Transferred Customer Data pursuant to clause 12.5 the Supplier shall comply with its obligations in clause 12.1, 12.2 , 12.3 and 12.4 and the Customer shall have the same rights in respect of the Transferred Customer Data retested pursuant to clause 12.5 and this clause 12.6.

- 12.7 The right of the Customer to demand the retesting of Transferred Customer Data is without prejudice to any other remedy available to the Customer in respect of any loss or expense to the Customer arising in consequence of the Supplier's failure to comply with this clause 12.

13 Exit Management

- 13.1 The Supplier shall comply with the Exit Management Schedule.

14 Change Control

- 14.1 The Supplier shall comply with the Change Control Schedule.

15 Support and Maintenance

- 15.1 The Supplier shall comply with the Support and Maintenance Schedule.

16 Delay

- 16.1 If, at any time, the Supplier becomes aware that there is reasonably likely to be a Delay the Supplier shall notify the Customer of the Delay as soon as practicable but in any event within 3 Working Days of becoming aware of the Delay.
- 16.2 The Supplier shall, as soon as reasonably practicable and in any event not later than 5 Working Days after the initial notification under clause 16.1, give the Customer full details in writing of:
- 16.2.1 the reasons for the Delay and
 - 16.2.2 the consequences of the Delay.
- 16.3 The Supplier shall make all reasonable endeavours to eliminate or mitigate the consequences of the Delay following the Rectification Procedure and the Customer shall use all reasonable endeavours to co-operate with the Supplier.
- 16.4 Any Disputes about or arising out of a Delay shall be resolved through the Dispute Resolution Procedure. Pending the resolution of the Dispute both parties shall continue to work to resolve the causes of, and mitigate the effects of, the Delay.

Rectification Procedure

- 16.5 If the Supplier notifies the Customer pursuant to Clause 16.1 that a Delay has occurred or the Customer notifies the Supplier that it considers a Delay to have occurred, or if the Supplier fails to meet the monitoring requirements or the performance indicator in the Monitoring and Performance Schedule, the Supplier shall follow the Rectification Procedure.
- 16.6 The Supplier shall submit a draft Rectification Plan to the Customer for review within 10 Working Days (or such other period as the Customer may instruct) after the notification pursuant to clause 16.1. The Supplier shall submit a draft Rectification Plan notwithstanding the fact that the Supplier disputes responsibility for the Delay. The draft Rectification Plan shall set out the full extent of the Delay, the actual or anticipated effect of the Delay and the

steps which the Supplier proposes to take to rectify the Delay and to prevent such Delay reoccurring together with a timescale for taking such steps and rectifying the Delay.

- 16.7 In complying with this clause 16, the Supplier shall provide to the Customer all relevant documentation relating to the Delay.
- 16.8 The Customer may, acting reasonably, reject the draft Rectification Plan for any reason for which it deems the draft Rectification Plan to be inadequate.
- 16.9 The Customer shall notify the Supplier whether it agrees to the draft Rectification Plan as soon as reasonably practical. If the Customer rejects the draft Rectification Plan the Customer shall state its reasons for doing so. The Supplier shall resubmit the draft Rectification Plan to the Customer having taken into account the Customer's comments on the draft Rectification Plan and shall do so within 5 Working Days of receiving the Customer's reasons for rejecting the draft Rectification Plan.
- 16.10 The Customer may agree to accept the draft Rectification Plan and shall notify the Supplier of doing so as soon as reasonably possible. The draft Rectification Plan shall become the Rectification Plan. The Supplier shall immediately commence implementation of the Rectification Plan and shall complete the implementation of the Rectification Plan within the timescales stated therein.
- 16.11 If the Supplier shall persistently fail to submit a draft Rectification Plan in respect of a Delay in accordance with clause 16.6 or the Customer persistently rejects the draft Rectification Plan for being inadequate pursuant to Clause 16.8 the Customer may treat the failure as a material breach of contract and may proceed to termination in accordance the Agreement.

17 Business Continuity and Disaster Recovery

- 17.1 If the Services shall involve any element of hosting, including storage or processing of the Customer Data, the Supplier shall comply with this clause 17.
- 17.2 The Supplier shall produce a Business Continuity Plan and a Disaster Recovery Plan (the "BC/DR Plan"). The BC/DR Plan shall:
 - 17.2.1 set out how the business continuity and disaster recovery elements of the BC/DR Plan link to each other;
 - 17.2.2 provide details of how the implementation of any element of the BC/DR Plan may impact upon the operation of the Services and any services provided to the Customer;
 - 17.2.3 contain an obligation upon the Supplier to liaise with the Customer with respect to issues concerning business continuity and disaster recovery where applicable;
 - 17.2.4 detail how the BC/DR Plan links and interoperates with any overarching and/or connected disaster recovery or business continuity plan of the Customer as notified to the Supplier by the Customer from time to time;
 - 17.2.5 contain a communication strategy including details of an incident and problem management service;
 - 17.2.6 contain a risk analysis, including:

- 17.2.6.1 failure or disruption scenarios and assessments and estimates of frequency of occurrence;
- 17.2.6.2 identification of any single points of failure within the Services and processes for managing the risks arising therefrom;
- 17.2.6.3 identification of risks arising from the interaction of the Services with other software solutions in use by the Customer; and
- 17.2.6.4 a business impact analysis (detailing the impact on business processes and operations) of different anticipated failures or disruptions;
- 17.2.7 provide for documentation of processes, including business processes, and procedures;
- 17.2.8 set out key contact details (including roles and responsibilities) for the Supplier (and any Sub-Suppliers) and for the Customer;
- 17.2.9 identify the procedures for reverting to "normal service";
- 17.2.10 set out method(s) of recovering or updating data collected (or which ought to have been collected) during a failure or disruption to ensure that there is no data loss and to preserve data integrity;
- 17.2.11 identify the responsibilities (if any) that the Customer has agreed it will assume in the event of the invocation of the BC/DR Plan; and
- 17.2.12 provide for the provision of technical advice and assistance to key contacts at the Customer as notified by the Customer from time to time to inform decisions in support of the Customer's business continuity plans.
- 17.3 The BC/DR Plan shall be designed so as to ensure that:
 - 17.3.1 the Services are provided in accordance with the Agreement at all times during and after the invocation of the BC/DR Plan;
 - 17.3.2 the adverse impact of any disaster, service failure, or disruption on the operations of the Customer is minimal as far as reasonably possible;
 - 17.3.3 it complies with the relevant provisions of all industry standards as set out in the tender and of all other industry standards from time to time in force; and
 - 17.3.4 there is a process for the management of disaster recovery testing detailed in the BC/DR Plan.
- 17.4 The BC/DR Plan shall be upgradeable and sufficiently flexible to support any changes to the Services or to the business processes facilitated by and the business operations supported by the Services.
- 17.5 The Supplier shall not be entitled to any relief from its obligations or to any increase in the Charges to the extent that a Disaster occurs as a consequence of any breach by the Supplier of this Agreement.
- 17.6 The BC/DR shall set out the arrangements that are to be invoked to ensure that the business processes and operations facilitated by the Services remain supported and to ensure

continuity of the business operations supported by the Services including and unless the Customer expressly states otherwise in writing:

- 17.6.1 the alternative processes, (including business processes), options and responsibilities that may be adopted in the event of a failure in or disruption to the Services; and
 - 17.6.2 the steps to be taken by the Supplier upon resumption of the Services in order to address any prevailing effect of the failure or disruption including a root cause analysis of the failure or disruption.
- 17.7 The BC/DR shall address the various possible levels of failures of or disruptions to the Services and the steps to be taken to remedy to the different levels of failure and disruption. The BC/DR shall also clearly set out the conditions and/or circumstances under which the Disaster Recovery Plan is invoked.
- 17.8 The Disaster Recovery Plan shall be designed so as to ensure that upon the occurrence of a Disaster the Supplier ensures continuity of the business operations of the Customer supported by the Services following any Disaster or during any period of service failure or disruption with, as far as reasonably possible, minimal adverse impact.
- 17.9 The Disaster Recovery Plan shall only be invoked upon the occurrence of a Disaster.
- 17.10 The Supplier shall review part or all of the BC/DR Plan and the risk analysis on which it is based on a regular basis and as a minimum once every twelve (12) calendar months and shall provide the Customer with any recommendations for varying the BC/DR (the "Supplier Proposals"). The Customer may agree the Supplier's Proposals or may request the Supplier to make changes to the Supplier Proposals, as the case may be.
- 17.11 The Supplier shall as soon as is reasonably practicable after receiving the Customer's approval of the Supplier Proposals effect any change in its practices or procedures necessary so as to give effect to the Supplier Proposals. Any such change shall be at the Supplier's expense.
- 17.12 Notwithstanding the obligation of the Supplier in this clause 17 if at any time during the Contract Period the Supplier is or becomes aware of a risk (s) that may have a significant effect(s) on the Services or the existing BC/DR Plan or the delivery of services by the Customer the Supplier shall inform the Customer and shall follow the procedure in clause 17.10 in relation to the risks identified.
- 17.13 In the event of a complete loss of the Services or in the event of a Disaster, the Supplier shall immediately invoke the BC/DR Plan (and shall inform the Customer promptly of such invocation). In all other instances the Supplier shall only invoke or test the BC/DR Plan with the prior consent of the Customer.

18 Monitoring and Performance

- 18.1 The Supplier shall provide the monitoring reports set out in the Monitoring Schedule.

Annex 1: Signed Exit Plan

Insert or append final signed exit plan before signing contract

Annex 2: Change Control Schedule

Definitions

'Change Control Note' shall mean the form of notice set out in Annex 3 to this Change Control Schedule.

'Change' shall mean any change to the Terms and Conditions of Contract or Special Conditions of Contract or any document constituting part of the Agreement.

General Principles

- 1.1. Where the Supplier or the Customer sees a need to change this Agreement, such Change may be made only in accordance with the Change Control Procedure set out in this Schedule.
- 1.2. Until such time as a Change is made in accordance with the Change Control Procedure, the Supplier and the Customer shall, unless otherwise agreed in writing, continue to perform this Agreement in compliance with its terms before such Change.
- 1.3. Any discussions which may take place between the Supplier and the Customer in connection with a request or recommendation for a Change before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 1.4. Any work undertaken by the Supplier which has not been authorised in advance by a Change, and which has not been otherwise agreed in accordance with the provisions of this Schedule, shall be undertaken entirely at the expense and liability of the Supplier.

Procedure

- 1.5 Discussion between the Supplier and the Customer concerning a Change shall result in any one of the following:
 - 1.5.1 no further action being taken; or
 - 1.5.2 a request to change this Agreement by the Customer; or
 - 1.5.3 a recommendation to Change this Agreement by the Supplier.
- 1.6 Where a written request for a Change is received from the Customer, the Supplier shall, unless otherwise agreed, submit a draft Change Control Note signed by the Supplier to the Customer within fifteen (15) Working Days of the date of the request.
- 1.7 A recommendation to Change this Agreement by the Supplier shall be submitted directly to the Customer in the form of a draft Change Control Note signed by the Supplier at the time of such recommendation. The Customer shall give its response to the draft Change Control Note within fifteen (15) Working Days of receipt of the Change Control Note.
- 1.8 Each draft Change Control Note shall contain:

- 1.8.1 the title of the Change;
 - 1.8.2 the originator and date of the request or recommendation for the Change;
 - 1.8.3 the reason for the Change;
 - 1.8.4 full details of the Change, including any specifications;
 - 1.8.5 the Price, if any, of the Change;
 - 1.8.6 a timetable for implementation, together with any proposals for acceptance of the Change;
 - 1.8.7 a schedule of payments if appropriate;
 - 1.8.8 details of the likely impact, if any, of the Change on other aspects of this Agreement including:
 - the timetable for the provision of the Change;
 - the personnel to be provided;
 - the documentation to be provided;
 - the training to be provided;
 - working arrangements; and
 - other contractual issues;
 - 1.8.9 the date of expiry of validity of the Change Control Note; and
 - 1.8.10 provision for signature by the Supplier and the Customer.
- 1.9 For each draft Change Control Note submitted by the Supplier the Customer shall:
- 1.9.1 allocate a sequential number to the draft Change Control Note; and
 - 1.9.2 evaluate the draft Change Control Note and, as appropriate:
 - (a) request further information; or
 - (b) arrange for two copies of the draft Change Control Note to be signed by or on behalf of the Supplier and return both of the copies to the Customer for signature; or
 - (c) notify the Supplier of the rejection of the draft Change Control Note stating the reasons for the rejection.
- 1.10 If the Customer rejects the draft Change Control Note pursuant to paragraph 1.9.2 (c) the Customer may ask the Supplier to resubmit the draft Change Control Note with such amendments as the Customer requires and subject to paragraph 1.12 of this Schedule Annex 2, the procedure in paragraph 1.9.2 shall apply.
- 1.11 A Change Control Note signed by the Supplier and by the Customer shall constitute an amendment to this Agreement.
- 1.12 If the Parties cannot agree the Change Control Note the dispute shall be determined in accordance with the Dispute Resolution Procedure in the Terms and Conditions of Contract.

Annex 3:

Change Control Note (the “CCN”)

Drawn between the Customer and the Supplier

Sequential number: insert CCN number

Title:

Originator:

Date change first proposed:

Number of pages attached:

WHEREAS the Supplier and the Customer entered into an Agreement for the provision of Services dated insert date and now wish to Change the Agreement as follows:

Reason for the proposed change: insert

Full details of proposed change: insert

Target date for implementing the change: insert

Details of any impact, if any, of proposed change on other aspects of the Agreement: insert

IT IS AGREED AS FOLLOWS:

1. Insert details of Change
2. Save as herein amended, all other terms and conditions of the Contract inclusive of any previous CCNs shall remain in full force and effect.

In Witness Whereof the parties have signed this CCN on the dates below written.

Supplier	
Signed by the Supplier	
Date	

Customer	
Signed by the Customer	
Date	
Countersigned by the Customer	
Date	

Annex 4: Support and Maintenance Schedule

Insert Agreed Spec In Line With ITT

Annex 5: Monitoring and Performance Schedule

Needs Setting Out In ITT Requirements And Added Below

Consider inserting the Supplier's performance Schedule if appropriate

1. The Supplier shall provide the monitoring reports set out below:

Monitoring Requirement	When Required
	Quarterly
	Monthly
	Monthly

2. The Supplier shall comply with the performance indicator set out below and shall provide confirmation of meeting the performance indicator as stated:

Performance Indicator	When Required

The Rectification Procedure shall apply if the Supplier fails to meet the requirements of this Schedule.

Property Special Terms Schedule

1. Charges, Payment and Recovery of Sums Due

1.1 The Charges for the Goods or Services shall be as set out in the Purchase Order and / or Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Goods or Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Goods or Services.

1.2 The following payment procedure shall apply for the provision of Services:

First request for payment

1.2.1 The Supplier shall make the first request for payment date one (1) calendar month after the Commencement Date. Later request for payment dates shall be one (1) calendar month after the first request for payment date until the Expiry Date. The payment due date is 7 days after each request for payment date.

Subsequent requests for payment

1.2.2 The Supplier shall submit monthly requests (or as agreed with the Customer) for payment to the Customer (or Appointed Consultant if instructed by the Customer) seven (7) days before each payment due date.

1.2.3 Each request for payment shall be based on the Charges and detail the amount the Supplier considers due and the basis on which that sum has been calculated. The Supplier shall present (or as agreed with the Customer), a monthly schedule of all services undertaken for that month. Each schedule shall include such supporting information required by the Customer to verify the accuracy of the intended charges, including the relevant Purchase Order number and a breakdown of the Goods or Services supplied in the invoice period.

1.2.4 Within five (5) days of the payment due date the Customer (or if applicable the Appointed Consultant) shall issue a payment notice together with details of sum due and the basis on which that sum is calculated.

1.2.5 On receipt of the payment notice, the Supplier shall submit an invoice (which must include a valid Purchase Order Number) and the Customer, in consideration of the supply of the Services by the Supplier, shall pay the Supplier the undisputed invoiced amounts no later than thirty (30) days after receipt of a valid undisputed invoice.

1.2.6 No later than seven (7) days before the final date for payment the Customer may issue a pay-less notice.

2. Facilities and Equipment

2.1 The Customer shall:

2.1.1 provide free of charge all electric power, water, gas, office space, lighting and heating at the Facilities and the provision of normal office services reasonably needed by the Supplier's Personnel to perform the Services (but excluding any secretarial support,

typing and photocopying facilities required to produce the documentation for which the Supplier is responsible);

2.1.2 subject to the Supplier's compliance with Clause 3.2 and Clause 3.3 of this Schedule, not unreasonably refuse a request from the Supplier to keep the Equipment at the Facilities;

2.1.3 arrange for the disposal of refuse from the Facilities; and

2.1.4 not service, maintain or attempt repair to the Facilities, or any part of them, or Equipment, directly or through a third party, without the consent of the Supplier.

3. Equipment

3.1 The Supplier shall, at its own expense, be responsible for the provision, maintenance, installation and replacement of all the Equipment.

3.2 The Supplier shall ensure that the Equipment:

(a) is suitable for the performance of the Services;

(b) is maintained in good working order, in a safe, serviceable and clean condition and in accordance with the manufacturer's instructions and Applicable Laws; and

(c) complies with the latest applicable British standard where such exists.

3.3 The Supplier shall comply with any reasonable directions issued by the Customer in respect of the use and maintenance of the Equipment at the Facilities.

4. Facilities

The Services shall be provided at the following Facilities:

Insert details of Facilities or reference an appendix

4.1 With effect from the Commencement Date, the Customer shall grant the Supplier a non-exclusive and revocable licence to enter the Facilities for the sole purpose of carrying out the Services to the Customer. The licence shall be subject to the conditions of this agreement, is personal to the Supplier and is not deemed to create a relationship of landlord and tenant between the parties.

4.2 The licence granted pursuant to Clause 4.1 shall terminate immediately on the Expiry Date or termination of this Agreement.

4.3 The Supplier has no right to exclude the Customer from any part of the Facilities and the Customer reserves the right at all times to permit other parties to use the Facilities.

4.4 The Supplier shall not alter or modify any part of the Facilities unless such alteration or modification is part of the Services to be provided by the Supplier and has been agreed in writing by the Customer.

4.5 The Supplier shall ensure that when visiting the Facilities, the Supplier's Personnel shall:

(a) keep the Facilities clean, tidy and properly secure;

- (b) co-operate as far as may be reasonably necessary with the Customer's employees;
- (c) act in such a way as to avoid causing unreasonable or unnecessary disruption to the routine and procedures of the Customer; and
- (d) comply with all rules and regulations that the Customer notifies to the Supplier from time to time in writing relating to the use and security of the Facilities.

4.6 The Supplier shall ensure that the Supplier's Personnel shall not:

- (a) obstruct access to the Facilities, or any part of them; or
- (b) do or permit to be done on the Facilities anything which is illegal or which may be or become a nuisance, damage, inconvenience or disturbance to the Customer or the occupiers of or visitors to the Facilities.

4.7 The Supplier shall notify the Customer immediately on becoming aware of any damage caused by the Supplier's Personnel to any property of the Customer, or to any of the Facilities in the course of providing the Services. The Supplier shall be responsible for the reasonable costs of repair or replacement and, without prejudice to its other rights and remedies under this agreement or otherwise, the Customer shall be entitled to set off such reasonable costs of repair or replacement against sums owing to the Supplier under this agreement.