

Standard Services Contract

Schedule 3 – General Terms and Conditions

Version: 4

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Reference: Standard Services Contract – Schedule 3

Team: Warwickshire Legal Services

Protective Marking: Public

1. Service Standards

- 1.1. Without prejudice to the Special Terms and Conditions, the Supplier warrants to the Council that it shall provide the Services, or procure that they are provided:
- a) with reasonable skill and care and in accordance with the best practice prevailing in the relevant industry;
 - b) in all respects in accordance with the Specification and the Council's policies as provided from time to time; and
 - c) in accordance with all applicable Law;

and shall allocate sufficient resources to the Services to enable it to comply with these obligations.

2. Compliance

- 2.1. The Supplier shall co-operate with the Council in all matters relating to the provision of the Services.
- 2.2. At its own cost, the Supplier shall ensure that all Necessary Consents are in place to provide the Services and the Council shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.
- 2.3. Where there is any conflict or inconsistency between the provisions of this Contract and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Supplier has made all reasonable attempts to obtain a Necessary Consent in line with the requirements of this Contract.
- 2.4. The Supplier shall perform its obligations under this Contract (including those in relation to the Services) in accordance with:
- a) all applicable Law regarding health and safety; and
 - b) the Council's health and safety policies whilst at the Council's Premises and/or in performing the Services.
- 2.5. Each Party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Council's Premises of which it becomes aware and which relate to or arise in connection with the performance of this Contract. The Supplier shall instruct the Supplier's Personnel to adopt any necessary safety measures in order to manage any such material health and safety hazards.
- 2.6. Without limiting the general obligation set out in clause 1.1(c) of these General Terms and Conditions, the Supplier shall (and shall procure that the Supplier's Personnel shall):
- a) perform its obligations under this Contract (including those in relation to the Services) in accordance with:

- i. all applicable equality law (whether in relation to race, sex, gender reassignment, age, disability, sexual orientation, religion or belief, pregnancy, maternity or otherwise);
 - ii. the Council's equality and diversity policy (as provided on the Council's website); and
 - iii. any other requirements and instructions which the Council reasonably imposes in connection with any equality obligations imposed on the Council at any time under applicable equality law.
- b) take all necessary steps, and inform the Council of the steps taken, to prevent unlawful discrimination designated as such by any court or tribunal, or the Equality and Human Rights Commission or (any successor organisation);
- c) at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Contract. The Supplier shall also undertake, or refrain from undertaking, such acts as the Council requests so as to enable the Council to comply with its obligations under the Human Rights Act 1998;
- d) perform its obligations under this Contract (including those in relation to the Services) in accordance with any directions or instructions of any relevant Regulatory Body;
- e) comply with the Modern Slavery Act 2015 and where applicable implement a due diligence procedure for its own suppliers, subcontractors and other participants in its supply chain to ensure that there is no slavery or human trafficking in its supply chain; and
- f) comply with the Counter-Terrorism and Security Act 2015 and have due regard for the Council's Prevent Duty in performing its obligations under this Contract, including (where appropriate) providing training to the Supplier's Personnel to ensure that they are aware of the Prevent Duty. The Supplier shall raise any concerns regarding extremism or terrorism with the Council.

3. Council's Premises and Assets

- 3.1. The Council shall, subject to clause 2 of these General Terms and Conditions and the provisions of any lease or licence annexed to the Special Terms and Conditions, provide the Supplier (and its Sub-Contractors) with access to such parts of the Council's Premises as the Supplier reasonably requires for the purposes only of properly providing the Services.
- 3.2. Subject to any additional requirements in the Special Terms and Conditions, in the event of the expiry or termination of the Contract, the Council shall on reasonable notice provide the Supplier with such access as the Supplier reasonably requires to the Council's Premises to remove any of the Supplier's equipment. All such equipment shall be promptly removed by the Supplier.

3.3. The Supplier shall ensure that:

- a) when using the Council's Premises and any Council Assets they are kept properly secure and shall comply and cooperate with the Council's Authorised Representative's reasonable directions regarding the security of the same;
- b) only those of the Supplier's Personnel that are duly authorised to enter upon the Council's Premises for the purposes of providing the Services, do so; and
- c) any Council Assets used by the Supplier are maintained (or restored at the end of the Term) in the same or similar condition as at the Start Date (fair wear and tear excepted) and are not removed from the Council's Premises unless expressly permitted under this Contract or by the Council's Authorised Representative.

3.4. The Council shall maintain and repair the Council Assets, however, where such maintenance or repair arises directly from the act, omission, default or negligence of the Supplier or its representatives (fair wear and tear excluded) the costs incurred by the Council in maintaining and repairing the same shall be recoverable from the Supplier as a debt.

3.5. The Supplier shall notify the Council immediately on becoming aware of any damage caused by the Supplier, its agents, Employees or Sub-Contractors to any property of the Council, to any of the Council's Premises or to any property of any other recipient of the Services in the course of providing the Services.

4. Charges and Payment

4.1. In consideration of the provision of the Services by the Supplier in accordance with this Contract, the Council shall pay the Charges to the Supplier.

4.2. The Supplier shall invoice the Council for payment of the Charges at the end of each calendar month (or such other interval as set out in the Specification or otherwise agreed in writing between the Parties). All invoices shall be directed to the Council's Exchequer Services Department.

4.3. Where the Supplier submits an invoice to the Council in accordance with clause 4.2 of these General Terms and Conditions, the Council will use its reasonable endeavours to consider and verify invoices in a timely manner with a view to ascertaining whether it is valid or disputed.

4.4. Subject to clause 4.5 of these General Terms and Conditions, the Council shall pay the Supplier any sums due under such an invoice no later than a period of 30 days from the date on which the Council has determined that the invoice is valid and undisputed.

4.5. Where the Contract Particulars state that the Supplier has agreed to the Early Payment Terms, the Council shall pay the Supplier any sums due in accordance with the Supplier Participation Agreement.

4.6. Where the Supplier enters into a Sub-Contract, the Supplier shall include in that Sub-Contract:

- a) provisions having the same effect as clause 4.3 and clause 4.4 of these General Terms and Conditions; and
 - b) a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses 4.3 and 4.4 of these General Terms and Conditions.
- 4.7. In clause 4.6 of these General Terms and Conditions, "Sub-Contract" means a contract between two or more suppliers, at any stage of remoteness from the Council 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 Contract.
- 4.8. Where any party disputes any sum to be paid by it then the payment shall not be paid and the dispute shall be determined in accordance with clause 13 of these General Terms and Conditions. Provided that the sum has been disputed in good faith, interest due on any payment in dispute shall not accrue until 14 days after resolution of the dispute between the parties.
- 4.9. Subject to clause 4.8 of these General Terms and Conditions, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this Contract at a rate per annum equivalent to 2% above the Bank of England base rate current on the date upon which such Charges first become overdue. The Supplier shall not suspend the performance of the Services if any payment is overdue.
- 4.10. The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Council following delivery of a valid VAT invoice. The Supplier shall indemnify the Council against any liability (including any interest, penalties or costs incurred) which is levied, demanded or assessed on the Council at any time in respect of the Supplier's failure to account for, or to pay, any VAT relating to payments made to the Supplier under this Contract.
- 4.11. The Supplier shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Council pursuant to this Contract. Such records shall be retained for inspection by the Council for 6 years from the end of the Contract Year to which the records relate (or 12 years if the Contract has been executed as a deed).
- 4.12. The Council may retain or set off any sums owed to it by the Supplier which have fallen due and payable against any sums due to the Supplier under this Contract or any other agreement pursuant to which the Supplier or any Associated Company of the Supplier provides goods or services to the Council.
- 4.13. If the Council wishes to set off any amount owed by the Supplier to the Crown or any part of the Crown (including the Council) against any amount due to the Supplier pursuant to clause 4.12 of these General Terms and Conditions it shall give notice to the Supplier within 30 days of receipt of the relevant invoice, setting out the Council's reasons for withholding or retaining the relevant Charges.
- 4.14. The Supplier shall make any payments due to the Council without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise,

unless the Supplier has a valid court order requiring an amount equal to such deduction to be paid by the Council to the Supplier.

5. Data Protection

- 5.1. The Supplier shall (and shall procure that any of its Supplier's Personnel involved in the provision of the Services shall) comply with any registration requirements under the Data Protection Legislation and in respect of the use of personal information in the course of delivering the Services both Parties shall duly observe all their obligations under the Data Protection Legislation, best practice and any Data Sharing Agreements.
- 5.2. Notwithstanding the general obligation in clause 5.1 of these General Terms and Conditions (or any other provisions in the Special Terms and Conditions), where the Supplier is processing Personal Data as Data Processor for the Council, the Specification shall set out the subject matter, nature and purpose of processing by the Supplier, the duration of the processing and the types of Personal Data and categories of Data Subject.
- 5.3. The Provider shall indemnify the Council for any costs, losses or expenses that the Commissioner incurs as a result of the Supplier failing to comply with the Data Protection Legislation or otherwise breaching this clause (including, without limitation to the foregoing, in any situation where a court or tribunal of competent jurisdiction holds the Supplier and the Council jointly and severally liable in respect of any claim where the Supplier was the Data Processor (either solely or jointly)).
- 5.4. The provisions of this clause 5 shall apply during the continuance of this Contract and indefinitely after its expiry or termination.

6. Freedom of Information

- 6.1. The Supplier acknowledges that the Council is subject to the requirements of the FOIA and the EIR. The Supplier shall (and shall procure that any of its Supplier's Personnel involved in the provision of the Contract shall):
 - a) provide all necessary assistance and cooperation as reasonably requested by the Council to enable the Council to comply with its obligations under the FOIA and EIR;
 - b) transfer to the Council all Requests for Information relating to this Contract (including the Services) that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - c) provide the Council with a copy of all Information belonging to the Council requested in the Request For Information which is in its possession or control in the form that the Council requires within 5 Working Days (or such other period as the Council may reasonably specify) of the Council's request for such Information;
 - d) not respond directly to a Request For Information unless authorised in writing to do so by the Council; and
 - e) indemnify the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements), losses and damages

arising from or incurred by reason of any breach of this clause 6 by the Supplier except to the extent that they have been caused by or contributed to by the Council's acts or omissions.

- 6.2. The Supplier acknowledges that the Council may be required under the FOIA and EIR to disclose Information (including Commercially Sensitive Information) without consulting with, or obtaining consent from, the Supplier. The Council shall take reasonable steps to notify the Supplier of a Request For Information to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) the Council shall be responsible for determining in its absolute discretion whether any Commercially Sensitive Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIR.

7. Confidential Information

- 7.1. Subject to clause 7.2 of these General Terms and Conditions, the parties shall keep confidential all matters relating to this Contract and shall use all reasonable endeavours to prevent their representatives from making any disclosure to any person of any matters relating hereto.
- 7.2. Clause 7.1 of these General Terms and Conditions shall not apply to any disclosure of information:
- a) required by law, a court of competent jurisdiction or any governmental or Regulatory Body provided that clause 6.2 of these General Terms and Conditions shall apply to any disclosures required under the FOIA or the EIR;
 - b) that is reasonably required by persons engaged by a party in the performance of such party's obligations under this Contract;
 - c) where a party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 7.1 of these General Terms and Conditions;
 - d) by the Council of any document to which it is a party and which the parties to this Contract have agreed contains no Commercially Sensitive Information;
 - e) to enable a determination to be made under clause 13 of these General Terms and Conditions;
 - f) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;
 - g) by the Council to any other department, office or agency of the Government; and
 - h) by the Council relating to this Contract and in respect of which the Supplier has given its prior written consent to disclosure.
- 7.3. On or before the End Date the Supplier shall ensure that all Documents and/or electronic records (however stored) in its possession, custody or control which

relate to personal information of the Council's Employees, rate-payers or service users, are delivered up to the Council or securely destroyed.

8. Supply of Information and Audit

- 8.1. The Supplier shall take such steps as may be reasonably practicable to afford the Council access to information which is reasonably required by the Council in connection with any of its statutory duties and responsibilities and for any purposes connected with its rights and obligations under this Contract or to enable the Council to prepare the necessary documentation to appoint another person to provide the Services.
- 8.2. The Supplier must inform the Council within seven days (of a decision being made or of the Supplier becoming aware, whichever is the earlier) if:
- a) it undergoes a change of Control;
 - b) it merges with another organisation;
 - c) it transfers any of its business to another organisation;
 - d) there is any change in the management of the organisation or part of the organisation providing the Services; or
 - e) a Regulatory Body directs an inquiry into or makes an order of any kind in relation to its affairs including requirements identified from an inspection; and
 - f) any registration or accreditation which it must maintain in order to provide the Services is withdrawn or cancelled or is threatened to be withdrawn or cancelled.
- 8.3. The Supplier shall at all reasonable times (including following termination of this Contract) afford to any auditor conducting an internal audit or inspection for the Council's Authorised Representative (or its nominee) access to any records, information and data in the possession or control of the Supplier which have been used in connection with the provision of the Services including (but without limitation) Council data and information stored on a computer system operated by the Supplier. This shall include permission to copy and remove any originals of such Documents.
- 8.4. Where applicable to the Services, the Supplier hereby authorises the Council to request and obtain information about the Supplier (including inspection reports) from the applicable or any successor Regulatory Body and other local authorities which may be relevant to the exercise of the Council's functions.
- 8.5. Following expiry of, or notice of termination of, this Contract, the Supplier shall also co-operate with any reasonable requests for information from the Replacement Supplier of the Services.
- 8.6. Without prejudice to any other provision in this clause 8, at the reasonable request of the Council or other competent body the Supplier shall at its own cost comply with any inspection, audit or other regulatory intervention in respect of or

in connection with the delivery of the Services both during the Term and after the Contract has expired or terminated.

9. Indemnity

- 9.1. The Supplier shall indemnify and keep indemnified the Council against all actions, proceedings, costs, claims, demands, liabilities, losses and expenses whatsoever whether arising in tort (including negligence) default or breach of this Contract, to the extent that any such loss or claim is due to the breach of contract, negligence, wilful default or fraud of itself or of its Employees or of any of its Authorised Representatives or sub-contractors save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Contract or applicable law by the Council or its Authorised Representatives (excluding any Supplier's Personnel).
- 9.2. The provisions of this clause 9 shall survive expiry or termination of this Contract however arising.

10. Insurance

- 10.1. The Supplier shall, at its own cost, effect and maintain with a reputable insurance company a policy or policies of insurance providing as a minimum the following levels of cover:
- a) public liability insurance with a limit of indemnity of not less than £10,000,000 in relation to any one claim or series of claims in the period of insurance;
 - b) employer's liability insurance with a limit of indemnity of not less than £10,000,000 in relation to any one claim or series of claims in the period of insurance; and
 - c) any other insurances required under the Special Terms and Conditions
- (the **Required Insurances**) in respect of all risks which may be incurred by the Supplier, arising out of the Supplier's performance of the Contract, including death or personal injury, loss of or damage to property or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Supplier.
- 10.2. Details of such insurance including copies of the relevant policies and copy certificates or equivalent shall be made available to the Council on request. The Council may request that such details be annexed to a letter addressed to the Supplier from its brokers in such form as shall be agreed together with receipts or other evidence of payment of the latest premiums due under those policies.
- 10.3. If, for whatever reason, the Supplier fails to give effect to and maintain the Required Insurances, the Council may make alternative arrangements to protect its interests and shall be entitled to recover the cost of such arrangements from the Supplier.

- 10.4. The Supplier shall notify the Council as soon as practicable when it becomes aware of any fact, circumstance or matter which has or might permit any insurer to cancel, rescind, suspend or void any insurance or claim in whole or in part.
- 10.5. The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities under the Contract.
- 10.6. The Supplier shall ensure that such insurance will cover post-termination liabilities when such a claim is made no later than 6 years after the expiry or termination of this Contract (or 12 years if the Contract has been executed as a deed).
- 10.7. The Supplier shall notify the Council as soon as reasonably practicable of any significant claim or proceedings brought against the Supplier which may be subject to a relevant indemnity or insurance claim.

11. Authorised Representatives

11.1. The Council's Authorised Representative:

- a) The Council shall employ a competent Authorised Representative empowered to act on behalf of the Council for all purposes connected with the Contract.
- b) The function of the Council's Authorised Representative shall be to liaise with and give instructions to the Supplier and the Supplier's Personnel, agents or sub-contractors in relation to all matters concerning the performance of the Supplier of its obligations under the Contract and to determine any matters or issue any notices as may be the function of the Authorised Representative under this Contract.

11.2. The Supplier's Authorised Representative:

- a) The Supplier shall employ a competent Authorised Representative empowered to act on behalf of the Supplier for all purposes connected with the Contract.
- b) To the extent it is reasonably possible, the Supplier shall not change the identity of the Supplier's Authorised Representative without first discussing the matter with the Council and having reasonable regard to the views of the Council in relation to any proposed replacement.

12. Monitoring Reporting and Review

- 12.1. The Supplier shall comply with any key performance indicators and/or any monitoring and reporting requirements where incorporated within the Specification and/or the Special Terms and Conditions, which may be amended from time to time by agreement between the Parties.
- 12.2. The Supplier shall assist with the Council's reasonable requests for performance information and agree to work in good faith with the Council's representatives engaged in monitoring the Contract.
- 12.3. The Supplier shall permit the Council at any time on reasonable notice access to records and information to the extent necessary for the Council or other authorised representatives to discharge its audit or statutory functions and which

the Supplier can disclose in accordance with the law. Such records may include (but are not limited to):

- a) any copies of records relating to the Supplier's Personnel who are involved in the supply of the Services; and
- b) any policies of the Supplier that are relevant to the provision of the Services.

13. Dispute Resolution

13.1. The parties will pursue at all times a positive approach towards dispute resolution in relation to the Contract to identify solutions to avoid legal proceedings where at all possible and maintain a strong working relationship.

13.2. If a dispute arises out of or in connection with this Contract or the performance, validity or enforceability of it (**Dispute**) then except as expressly provided in the Special Terms and Conditions, the parties shall follow the procedure set out in this clause:

- a) either party shall give to the other written notice of the Dispute, setting out its nature and full particulars (**Dispute Notice**), together with relevant supporting documents. On service of the Dispute Notice, the Authorised Representatives shall attempt in good faith to resolve the Dispute;
- b) if the Authorised Representatives are for any reason unable to resolve the Dispute within 30 days of service of the Dispute Notice, the Dispute shall be referred to a senior officer of the Council and senior officer of the Supplier who shall attempt in good faith to resolve it; and
- c) if the Council's senior officer and the Supplier's senior officer are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties may attempt to settle it by mediation in accordance with the Centre for Effective Dispute Resolution (**CEDR**) Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR. To initiate the mediation, a party must serve notice in writing (**ADR Notice**) to the other party to the Dispute, requesting a mediation. A copy of the ADR Notice should be sent to CEDR Solve (CEDR's dispute resolution service). The mediation will start not later than 28 Working Days after the date of the ADR notice.

13.3. The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 31 of these General Terms and Conditions which clause shall apply at all times.

14. Intellectual Property Rights

14.1. In the absence of prior written agreement by the Council to the contrary, all Intellectual Property Rights created by the Supplier or any Employee, agent or subcontractor of the Supplier:

- a) in the course of performing the Services; or
- b) exclusively for the purpose of performing the Services

shall vest in the Council on creation.

- 14.2. The Supplier shall indemnify the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Rights by the availability of the Services, except to the extent that they have been caused by or contributed to by the Council's acts or omissions.

15. Step In

- 15.1. If the Supplier fails to carry out any part of the Services as required by this Contract, without prejudice to any other remedy under this Contract, the Council shall be entitled to take any necessary action and/or take over the performance of the relevant Services affected (or procure such action or performance from another provider) and recover the cost (or additional cost over what would have been paid, if the Services that have not been performed have not been paid for) it incurs in doing so from the Supplier.
- 15.2. The Council shall give the Supplier reasonable notice of the failure under clause 15.1 of these General Terms and Conditions and of the required action and time by when the matter must be remedied (or performance commenced) before making arrangements for itself or others to carry out the required action or take over the affected Services.

16. Acceptance and Rejection

- 16.1. If any Services do not comply with any of the terms of the Contract, the Council may (without prejudice to any other right or remedy it may have):
- a) suspend performance of the Services pending resolution of the non-compliance to the Council's satisfaction, without liability to the Supplier; or
 - b) at the Council's option, require the Supplier to take such steps, at the Supplier's cost, as are reasonably required by the Council to remedy any Services and carry out any other work necessary to ensure that the terms of the Contract are complied with.

17. Termination

- 17.1. The Council may terminate this Contract in whole or part with immediate effect by the service of written notice on the Supplier in the following circumstances:
- a) if the Supplier is in Material Breach of any obligation under this Contract and that breach is not capable of remedy to the Council's satisfaction;
 - b) if the Supplier is in Material Breach of any obligation under this Contract, that breach is capable of remedy and the Supplier has failed to remedy the breach to the Council's satisfaction within 28 days of receipt of a Default Notice;
 - c) if there is an Insolvency Event;

- d) if there is a change of control of the Supplier within the meaning of section 1124 of the Corporation Tax Act 2010;
 - e) if any of the provisions of Regulation 73(1) of the Public Contracts Regulations 2015 apply; or
 - f) if any other circumstances specified in the Special Terms and Conditions apply.
- 17.2. The Council may terminate this Contract in accordance with the provisions of clause 20 and clause 21 of these General Terms and Conditions.
- 17.3. If this Contract is terminated by the Council for cause under clause 17.1 and/or clause 17.2 of these General Terms and Conditions such termination shall be at no loss or cost to the Council and the Supplier hereby indemnifies the Council against any such losses or costs which the Council may suffer as a result of any such termination for cause.

18. Consequences of Expiry or Termination

- 18.1. On the expiry of the Term or if this Contract is terminated in whole or in part for any reason the Supplier shall:
- a) co-operate fully with the Council to ensure an orderly migration of the Services to the Council or, at the Council's request, a Replacement Supplier at no extra cost to the Council; and
 - b) procure that all data, Documents and other material belonging to the Council (and all media of any nature containing information and data belonging to the Council or relating to the Services), shall be delivered to the Council forthwith at no extra cost to the Council and the Supplier's Authorised Representative shall certify full compliance with this clause.
- 18.2. If the Supplier fails to fulfil its obligations under clause 18.1 then the Council shall have authority to enter the Supplier's premises upon reasonable notice and take possession of any items which should have been returned to it. Until they have been returned the Supplier shall be solely responsible for their safe keeping.
- 18.3. Where notice of termination has been given, the parties shall immediately liaise with regard to matters such as the redeployment of personnel and potential transfer of contractual obligations and liabilities in order to minimise the financial repercussions of such termination and ensure an orderly migration of the Services to the Council or, at the Council's election, to a Replacement Supplier.
- 18.4. The termination of this Contract is without prejudice to the accrued rights of the Parties.

19. Sub-Contracting and Assignment

- 19.1. Subject to clause 19.3 of these General Terms and Conditions, neither party shall assign, transfer, novate, mortgage, charge, declare a trust over or otherwise dispose of any or all of its rights and obligations under this Contract without the prior written consent of the other party. The Supplier may not sub-contract the whole or any part of its obligations under this Contract except with

the express prior written consent of the Council, such consent not to be unreasonably withheld.

19.2. In the event that the Supplier enters into any Sub-Contract in connection with this Contract it shall:

- a) remain responsible to the Council for the performance of its obligations under the Contract notwithstanding the appointment of any Sub-Contractor and be responsible for the acts, omissions and neglects of its Sub-Contractors;
- b) impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to this Contract and shall procure that the Sub-Contractor complies with such terms; and
- c) provide a copy, at no charge to the Council, of any such Sub-Contract on receipt of a request for such by the Council's Authorised Representative.

19.3. The Council shall be entitled to novate the Contract to any other body which substantially performs any of the functions that previously had been performed by the Council.

19.4. Provided that the Council has given prior written consent, the Supplier shall be entitled to novate the Contract where:

- a) the specific change in contractor was provided for in the procurement process for the award of this Contract; or
- b) there has been a universal or partial succession in the position of the Supplier, following a corporate restructuring, including takeover, merger, acquisition or insolvency, by another economic operator that meets the criteria for qualitative selection applied in the procurement process for the award of this Contract.

19.5. Without prejudice to any other remedies available to the Council under this Contract, in the event that the Supplier purports to novate the Contract without the prior written consent required under clause 19.4, the Council shall be entitled to treat such an act as a breach of the Contract, notwithstanding if it has continued to receive the Services since the purported novation.

20. Prevention of Bribery

20.1. The Supplier represents and warrants that neither it, nor to the best of its knowledge any of the Supplier's Personnel, have at any time prior to the Start Date:

- a) committed a Prohibited Act or been formally notified that it is subject to an investigation or prosecution which relates to an alleged Prohibited Act; and/or
- b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act.

20.2. The Supplier shall not during the term of this Contract:

- a) commit a Prohibited Act; and/or
- b) do or suffer anything to be done which would cause the Council or any of the Council's Employees, consultants, contractors, sub-contractors or agents to contravene any of the Bribery Act or otherwise incur any liability in relation to the Bribery Act.

20.3. The Supplier shall during the term of this Contract:

- a) establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, policies and procedures which are adequate to ensure compliance with the Bribery Act and prevent the occurrence of a Prohibited Act; and
- b) keep appropriate records of its compliance with its obligations under clause 20.3(a) of these General Terms and Conditions and make such records available to the Council on request.

20.4. The Supplier shall immediately notify the Council in writing if it becomes aware of any breach of clause 20.1 and/or clause 20.2 of these General Terms and Conditions, or has reason to believe that it has or any of the Supplier's Personnel have:

- a) been subject to an investigation or prosecution which relates to an alleged Prohibited Act;
- b) been listed by any government department or agency as being debarred, suspended, proposed for suspension or debarment, or otherwise ineligible for participation in government procurement programmes or contracts on the grounds of a Prohibited Act; and/or
- c) received a request or demand for any undue financial or other advantage of any kind in connection with the performance of this Contract or otherwise suspects that any person or Party directly or indirectly connected with this Contract has committed or attempted to commit a Prohibited Act.

20.5. If the Supplier makes a notification to the Council pursuant to clause 20.4 of these General Terms and Conditions, the Supplier shall respond promptly to the Council's enquiries, co-operate with any investigation and allow the Council to audit any books, records and/or any other relevant documentation in accordance with clause 8 of these General Terms and Conditions.

20.6. If the Supplier is in default under clause 20.1 and/or clause 20.2 of these General Terms and Conditions, the Council may by notice:

- a) require the Supplier to remove from performance of this Contract any of the Supplier's Personnel whose acts or omissions have caused the default; or
- b) immediately terminate this Contract.

20.7. Any notice served by the Council under clause 20.6 of these General Terms and Conditions shall specify the nature of the Prohibited Act, the identity of the party

who the Council believes has committed the Prohibited Act and the action that the Council has elected to take (including, where relevant, the date on which this Contract shall terminate).

21. Force Majeure

21.1. Neither the Council nor the Supplier shall be liable to the other party for any delay in or failure to perform its obligations under the Contract (other than a payment of money) if such delay or failure results from a Force Majeure event. Notwithstanding this, each party shall use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure event.

21.2. Any failure or delay by the Supplier in performing its obligations under the Contract which results from any failure or delay by an agent, sub-contractor or supplier shall be regarded as due to Force Majeure only if that agent, sub-contractor or supplier is itself impeded by Force Majeure from complying with an obligation to the Supplier.

22. Business Continuity

22.1. The Supplier must have in place an up-to-date Business Continuity Plan at all times to ensure that any critical service activities can continue to be delivered following any event that causes an interruption to service provision (including but not limited to, flooding, service downtime, etc.)

22.2. The Council reserves the right to inspect the Supplier's Business Continuity Plan at any time and decide if it is acceptable to the Council. If the plan is not acceptable then the Council has the right to require that the plan be revised without delay to meet the obligations set out in this clause 22.

23. Publicity

23.1. Without prejudice to any other legal obligation of the Supplier or other provision of this Contract, the Supplier shall not mention the Council's name or logo in any promotional, marketing or other communication without the prior written consent of the Council.

23.2. The Supplier shall promote this work with the Council in a positive manner.

24. Variation

24.1. The Council shall be entitled to issue to the Supplier in writing, variation orders requiring the addition, suspension, reduction, cessation or other variation of provision of any Services.

24.2. Subject to any other provisions in the Special Terms and Conditions, no variation or modification to the Contract is valid unless it is in writing and signed by the Council and the Supplier.

25. Waiver, Rights and Remedies

25.1. A waiver of any right or remedy under this Contract or by law is only effective if given in writing and shall not be deemed a waiver of any subsequent breach or default.

- 25.2. A failure or delay by a party to exercise any right or remedy provided under this Contract or by law shall not constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict any further exercise of that or any other right or remedy. No single or partial exercise of any right or remedy provided under this contract or by law shall prevent or restrict the further exercise of that or any other right or remedy.
- 25.3. Except as expressly provided in the Special Terms and Conditions, the rights and remedies provided under this Contract are in addition to, and not exclusive of, any rights or remedies provided by law.

26. Severance

- 26.1. If any provision or part-provision of this Contract is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Contract.

27. Partnership, Agency and Third Party Rights

- 27.1. Nothing in this Contract is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party except as expressly provided in the Special Terms and Conditions.
- 27.2. Each party confirms it is acting on its own behalf and not for the benefit of any other person.
- 27.3. Except as expressly provided in the Special Terms and Conditions, a person who is not a party to this Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract.

28. Notices

- 28.1. Any notice given to a party under or in connection with this Contract shall be in writing marked for the attention of the party's Authorised Representative and shall be:
- a) delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case);
 - b) sent by fax to its main fax number; or
 - c) sent by email, provided that a copy is also delivered by hand or by pre-paid first-class post or other next working day delivery service at its registered office (if a company) or its principal place of business (in any other case).
- 28.2. Any notice shall be deemed to have been received:
- a) if delivered by hand, on signature of a delivery receipt or at the time the notice is left at the proper address;

- b) if sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service; or
- c) if sent by fax, at 9.00 am on the next Working Day after transmission; or
- d) if sent by email prior to 5pm on a Working Day, the date and time that the email is sent or if sent after 5pm and/or on a day that is not a Working Day, 9.00 am on the next Working Day.

28.3. This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

29. Entire Agreement

29.1. This Contract, the schedules and the documents annexed to it or otherwise referred to in it constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.

29.2. Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this Contract. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Contract.

30. Governing Law

30.1. This Contract and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

31. Jurisdiction

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

32. Counterparts

32.1. This Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute a duplicate original, but all the counterparts shall together constitute the one Contract.