



Framework Agreement between

The Authority

Torbay Council of Town Hall, Torquay, Devon, TQ1 3DR

and

The Supplier

[Insert name, registered office address and, where applicable, the company number of the Supplier]

Date

[Insert the date when signed by both parties]

Agreement Commencement Date

[Insert the date on which the Agreement shall commence]

Summary of Services

[Insert a summary of the Services to be supplied by the Supplier]

This Agreement is made on the date set out above subject to the terms set out in the schedules listed below (**Schedules**). The Authority and the Supplier undertake to comply with the provisions of the Schedules in the performance of this Agreement.

The Supplier shall supply to the Authority, and the Authority shall receive and pay for, the Services on the terms of this Framework Agreement and any subsequent Call-Off Contract.

The Definitions in Part 3 apply to the use of all capitalised terms in this Agreement.

Schedule 1	Key Provisions
Schedule 2	General Provisions
Schedule 3	Award Procedures
Schedule 4	Definitions and Interpretations
Schedule 5	Services and Lots
Schedule 6	Specification
Schedule 7	Supplier's Tender Response
Schedule 8	Pricing Schedule
Schedule 9	Framework Agreement Variation Procedure
Schedule 10	Order Form
Schedule 11	Contract Management
Schedule 12	Call Off Terms and Conditions

Executed as a deed by affixing the common seal of **Torbay Council** in the presence of:

.....

Name

Position

COMMON SEAL

Signed by the Authorised Representative of THE SUPPLIER

Name:		Signature	
Position:			

Schedule 1 Key Provisions

Background

- (A) The Authority published a contract notice with contract reference **[insert the contract notice reference that will be found on the Authority's contract notice for this Framework Agreement]** on **[insert date that the contract notice was published]** in the Official Journal of the European Union seeking expressions of interest from potential providers for **[insert a brief description of the Services to be provided by the Supplier]**.
- (B) The Authority has, through a competitive process, selected the Supplier to provide these services and the Supplier is willing and able to provide the services in accordance with the terms and conditions of this Framework Agreement and any subsequent Call-Off Contract.
- (C) Documents that form part of this Agreement are
- (i) the completed tender documents including the Specification, Supplier Tender Response Payment Schedule, and any other supporting documentation; and
 - (ii) the Front Sheet and its associated Schedules.

Standard Key Provisions

1 Application of the Key Provisions

- 1.1 The standard Key Provisions at clauses 1 to 6 of these Key Provisions shall apply to this Agreement.
- 1.2 The optional Key Provisions at clauses 7 and 8 of these Key Provisions shall apply to this Agreement if they are set out in the section below. The tick boxes are purely for administrative purposes and have no bearing on the terms of this Agreement.
- 1.3 Extra Key Provisions shall only apply to this Agreement where such provisions are set out at the end of this Schedule 1.

2 Term

- 2.1 This Framework Agreement shall take effect on the Commencement Date and shall continue for the Term unless terminated early or extended as appropriate in accordance with the terms conditions or clauses of this Agreement.
- 2.2 The Initial Term shall be the period commencing on the Commencement Date and ending **[insert proposed end date of the Agreement]** unless terminated in advance of this date.

3 Authorised Representatives

- 3.1 At the Commencement of this Agreement:
- (a) the Authority Authorised Representative is:
[insert name and role of the Authority's Authorised Representative]
 - (b) the Supplier Authorised Representative is:
[insert name and role of the Supplier's Authorised Representative].

4 Names and addresses for notices

- 4.1 Notices served under this Agreement are to be delivered to:
- (a) for the Authority:
[complete name and/or role (this is normally going to be the Authorised Representative identified at 3 above) and postal address that they shall be contacted at – please note the address may be different to the registered office address of the Authority above]
[insert e-mail address of the person identified above]
 - (b) for the Supplier:

[complete name and/or role (this is normally going to be the Authorised Representative identified at 3 above and postal address that they shall be contacted at – please note the address may be different to the registered office address of the Supplier above).

[insert e-mail address of the person identified above]

5 Order of precedence

- 5.1 Should there be a conflict between any other parts of this Agreement the order of priority for construction purposes shall be:
- (a) the provisions of the Front Sheet of this Framework Agreement;
 - (b) Schedule 1: Key Provisions;
 - (c) Schedule 6: Specification;
 - (d) Schedule 8: Pricing Schedule;
 - (e) Schedule 2 General Terms
 - (f) Schedule 3 Award Procedures
 - (g) Part 2: Call-Off Terms;
 - (h) Schedule 7 Supplier's Tender Response Document;
 - (i) Schedule 4 Definitions and Interpretations; and
 - (j) the order in which all subsequent schedules, if any, appear.

6 Scope of Framework Agreement

- 6.1 This Agreement governs the relationship between the Authority or any Other Contracting Authority and the Supplier in respect of the provision of the Services by the Supplier to the Authority or any Other Contracting Authority.
- 6.2 The Authority appoints the Supplier as a Framework Provider of the Services and the Supplier shall be eligible to receive Orders for such Services from the Authority and any Other Contracting Authority during the Term.
- 6.3 The Authority and any Other Contracting Authority may, at its absolute discretion and from time to time, order Services from the Supplier in accordance with the ordering procedure set out in Schedule 3 during the Term. The Parties acknowledge and agree that the Authority and any Other Contracting Authority has the right to order Services pursuant to this Framework Agreement provided that they comply at all times with the Regulations and the ordering procedure in Schedule 3. If there is a conflict between Schedule 3 and the Regulations, the Regulations shall take precedence.
- 6.4 If and to the extent that any Services under this Framework Agreement are required the Authority or any Other Contracting Authority shall:
- (a) enter into a contract with the Supplier for these Services materially in accordance with the terms of the Contract; and
 - (b) comply with the ordering procedure in Schedule 3.
- 6.5 The Supplier acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Authority or any Other Contracting Authority for the Services and that the Authority and any Other Contracting Authority is at all times entitled to enter into other contracts and arrangements with other suppliers for the provision of any or all services which are the same as or similar to the Services.
- 6.6 The Authority shall not in any circumstances be liable to the Supplier or any Other Contracting Body for payment or otherwise in respect of any Services provided by the Supplier to any Other Contracting Body.

Optional Key Provisions

<input type="checkbox"/>	7	Not Used
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<input checked="" type="checkbox"/>	<p data-bbox="389 170 1299 203">8 Exit Management and Consequences of Termination or Expiry</p> <p data-bbox="389 230 1361 416">8.1 Notwithstanding the service of a notice to terminate the Framework Agreement, the Supplier shall continue to fulfil its obligations under the Framework Agreement until the date of expiry or termination of the Framework Agreement or such other date as required under this clause 8.</p> <p data-bbox="389 443 1361 712">8.2 Unless expressly stated to the contrary, the service of a notice to terminate the Framework Agreement shall not operate as a notice to terminate any Contract made under the Framework Agreement. Termination or expiry of the Framework Agreement shall not cause any Contracts to terminate automatically. For the avoidance of doubt, all Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.</p> <p data-bbox="389 739 432 768">8.3</p> <p data-bbox="389 795 1361 864">8.4 On termination or expiry of this Agreement for any reason, the Supplier shall:</p> <ul style="list-style-type: none"> <li data-bbox="504 891 1361 1039">(a) immediately deliver to the Authority all Authority Assets (where applicable), copies of information, documentation and Data provided by the Authority to the Supplier for the purposes of this Agreement; <li data-bbox="504 1066 1361 1214">(b) immediately repay to the Authority all Charges that it has been paid in respect of Services not provided by the Supplier as at the date of expiry or termination or any other sums due to the Authority in accordance with this Contract; <li data-bbox="504 1240 1002 1270">(c) cease to use the Authority Data; <li data-bbox="504 1296 1361 1364">(d) provide the Authority with a complete and uncorrupted version of all Authority Data; <li data-bbox="504 1391 1361 1581">(e) certify to the Authority that it has not retained any copies of any Authority documentation or other information or data, except for one copy which the Supplier may use for audit purposes only and subject to the confidentiality obligations in clause Schedule 212 of the General Provisions; <li data-bbox="504 1608 1040 1637">(f) vacate any Authority Premises; and <li data-bbox="504 1664 1361 1731">(g) provide such information relating to the Services as remains in the possession or control of the Supplier. <p data-bbox="389 1758 1361 1944">8.5 If the Supplier fails to fulfil its obligations under clause 8.1, then the Authority may enter the Supplier's premises and take possession of any items which should have been returned under it. Until they have been returned or repossessed, the Supplier shall be solely responsible for their safe keeping.</p> <p data-bbox="389 1971 1361 2078">8.6 The provisions of clauses Schedule 29 (Insurance), Schedule 210 (Freedom of Information and Transparency Obligations), Schedule 211 (Data Protection), Schedule 212 (Confidentiality), Schedule 213 (Audit),</p>
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	<p>Schedule 215 (Termination for Breach), Schedule 219 (Prevention of Bribery) of the General Provisions and this clause 8 shall survive termination or expiry of this Contract.</p> <p>8.7 Termination or expiry of this Contract shall not affect any rights, remedies, obligations or liabilities of the parties that have accrued up to the date of termination or expiry, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination or expiry.</p>
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Additional Key Provisions

<input checked="" type="checkbox"/>	<p>9 Quality Control</p> <p>9.1 It shall be the duty of the Supplier well and properly to provide the Service to a standard which is in all respects to the reasonable satisfaction of the Authority or the Customer and to comply in all respects with the Framework Agreement and any resultant Call-Off Contract.</p> <p>9.2 The Supplier shall ensure that neither it, nor any of its Staff or sub-contractors embarrasses the Authority or otherwise brings the Authority into disrepute by engaging in or permitting any political activities on Authority premises or by any other act or omission relating to the performance of the Services which is reasonably likely to diminish the trust that the public places in the Authority, regardless of whether or not such act or omission is related to the Supplier's obligations under this Agreement.</p> <p>9.3 The Supplier shall deal with any complaints received (whether oral or written whether from the Authority or others) in a prompt, courteous and efficient manner and in accordance with its complaints procedure (a copy of which is available to the Authority upon demand).</p> <p>9.4 Unresolved complaints received or referred to the Authority may be investigated by the Authority, possibly making use of the Authority's own complaints procedure, which may, where it considers it appropriate, issue a Default Notice to the Supplier.</p> <p>9.5 The Supplier shall throughout the Framework Period institute and maintain a properly documented system of quality control designed to ensure that the Services are provided at all times and in all respects in accordance with this Agreement and any resultant Call-Off Contract. Such a system shall</p> <ul style="list-style-type: none"> (a) include daily supervision and the carrying out of frequent inspections of buildings, sites and locations at which the Services are to be provided and equipment used by the Supplier; and (b) ensure the recording of any complaints received in connection with the provision or failure to provide the Service, (whether received orally or in writing and whether from members of the public or others) detailing the nature of the complaint, the name of the complainant, the time and date it was received, the action taken by the Supplier in
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	<p>respect of each such complaint, and the names of the Supplier's staff involved in the action complained of and its remedy.</p> <p>9.6 The system maintained by the Supplier in accordance with this condition shall be in addition to, and shall not prejudice:</p> <p>(a) any independent inspection undertaken by the Authority;</p> <p>(b) the award of any Default Notice.</p> <p>9.7 The system shall be operated by the Contract Manager on behalf of the Supplier and shall be open to inspection on reasonable notice at any reasonable time by the Authority. In the event that any reasonable recommendations concerning the improvement of the system are made by the Authority from time to time, such recommendation shall be implemented by the Supplier as soon as practicable.</p> <p>9.8 The Authority shall have the right at any time during working hours on a working day to speak with any member of the Supplier's staff in connection with that member of staff's involvement in the carrying out of the Services. 48 hours' notice will be given to the Contract Manager.</p> <p>9.9 The Authority shall also be entitled to request any information relating to the carrying out of the Services and such information shall be supplied by the Supplier as soon as practicable following request.</p>
<input checked="" type="checkbox"/>	<p>10 Business Continuity</p> <p>10.1 Within 3 months following the Commencement Date, the Supplier shall prepare a draft business continuity plan relating to its provision of the Services and submit that plan to the Authority for its approval. The draft business continuity plan shall:</p> <p>(a) address how the Supplier will respond to, and rectify, any destruction or loss of the Hardware, Software, Data or any other facilities used by the Supplier in providing the Services so that there is no disruption to the Authority or the performance of the Supplier's obligations under this Contract, and</p> <p>(b) detail how and when the Supplier will test its business continuity plan.</p> <p>10.2 The Authority shall within a reasonable time provide its comments on the Supplier's draft business continuity plan, and if necessary, the parties shall discuss the Authority's comments and the Supplier shall then promptly prepare a revised draft business continuity plan which addresses the Authority's comments and submit it to the Authority for approval within 30 days of receipt of the Authority's comments provided under this clause 10.2. This process shall be repeated until the Authority approves the business continuity plan in writing.</p> <p>10.3 Once the Authority has approved the Supplier's draft business continuity plan in writing it will form part of this Contract and the Supplier shall perform its obligations under the approved business continuity plan.</p>

	<p>10.4 The Supplier shall review its business continuity plan at least every 12 months and update it as necessary to reflect any changes in the way the Supplier carries on business or provides the Services, any changes made to any aspect of this Contract or any other changes required as a result of changes by the Authority to its business continuity requirements.]</p>
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Schedule 2 General Provisions

1 Supply of Services

- 1.1 The Supplier shall provide the Services to the Authority with effect from the Commencement Date and for the duration of this Contract in accordance with the provisions of this Contract.
- 1.2 In the event that the Supplier does not comply with the provisions of clause 1.1 in any way, the Authority may serve the Supplier with a notice in writing setting out the details of the Supplier's default (a **Default Notice**). The Default Notice shall be in the form set out in Schedule 11.

2 Service Levels

- 2.1 The Service Level Arrangements (if any) shall apply with effect from the Commencement Date (unless the Specification provides to the contrary).

3 Compliance

- 3.1 The Supplier shall ensure that all Necessary Consents are in place to provide the Services and the Authority shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.
- 3.2 Where there is any conflict or inconsistency between the provisions of the Contract and the requirements of a Necessary Consent, then the latter shall prevail, provided that the Supplier has used best endeavours to obtain a Necessary Consent in line with the requirements of the Services.
- 3.3 Without prejudice to clause 2 the Supplier shall provide the Services, or procure that they are provided:
- (a) with all reasonable skill and care and in accordance with Best Industry Practice;
 - (b) in all respects in accordance with the Authority's requirements set out in the Specification which may from time to time be amended in accordance with this Contract by the Authority ; and
 - (c) in accordance with all applicable laws.
- 3.4 Without limiting the general obligation set out in clause 3.1, the Supplier shall (and shall procure that the Supplier's Personnel shall):
- (a) 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 Authority requests so as to enable the Authority to comply with its obligations under the Human Rights Act 1998;
 - (b) not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment; and
 - (c) **comply with** any other requirements and instructions which the Authority reasonably imposes in connection with any equality obligations imposed on the Authority at any time under applicable equality law.

4 Due Diligence

- 4.1 The Supplier acknowledges and confirms that:
- (a) it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Authority all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Contract;

- (b) it has received all information requested by it from the Authority pursuant to **Schedule 12 Part 2 clause 7.1** to enable it to determine whether it is able to provide the Services in accordance with the terms of this Contract;
- (c) it 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 Authority pursuant to paragraph (b);
- (d) it has raised all relevant due diligence questions with the Authority before the Commencement Date; and
- (e) it has entered into this Contract in reliance on its own due diligence.

4.2 Save as provided in this Contract, no representations, warranties or conditions are given or assumed by the Authority in respect of any information which is provided to the Supplier by the Authority and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.

4.3 The Supplier:

- (a) as at the Commencement Date, warrants and represents that all information contained in the Supplier's Tender Response remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Contract; and
- (b) shall promptly notify the Authority in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information provided to it by the Authority during such due diligence which materially and adversely affects its ability to perform the Services or meet the Service Level Arrangements.

4.4 The Supplier shall not be entitled to recover any additional costs from the Authority which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Authority by the Supplier in accordance with **Schedule 12 Part 2 clause 7.2** save where such additional costs or adverse effect on performance have been caused by the Supplier having been provided with fundamentally misleading information by or on behalf of the Authority and the Supplier could not reasonably have known that the information was incorrect or misleading at the time such information was provided. If this exception applies, the Supplier shall be entitled to recover such reasonable additional costs from the Authority or shall be relieved from performance of certain obligations as shall be determined by the Change Control Procedure.

4.5 Nothing in this clause 4 shall limit or exclude the liability of the Authority for fraud or fraudulent misrepresentation.

5 Key Personnel

5.1 Each party shall appoint the persons named as such in the Specification as the individuals who shall be responsible for the matters allocated to such Key Personnel. The Key Personnel shall be those people who are identified by each party as being key to the success of the implementation and/or operation of the Services and who shall be retained on the implementation and/or operation of the Services for such time as a person is required to perform the role which has been allocated to the applicable Key Personnel. The Key Personnel shall have the Authority to act on behalf of their respective party on the matters for which they are expressed to be responsible.

5.2 The Supplier shall not remove or replace any of the Key Personnel unless:

- (a) requested to do so by the Authority;
- (b) the person is on long-term sick leave;
- (c) the element of the Services in respect of which the individual was engaged has been completed to the Authority's satisfaction;

- (d) the person resigns from their employment with the Supplier; or
- (e) the Supplier obtains the prior written consent of the Authority.

5.3 The Supplier shall inform the Authority of the identity and background of any replacements for any of the Key Personnel as soon as a suitable replacement has been identified. The Authority may, acting reasonably, object to any such proposed appointment within 30 Working Days of being informed of or meeting any such replacement if, in its reasonable opinion, it considers the proposed replacement to be unsuitable for any reason.

5.4 Each party shall ensure that the role of each of its Key Personnel is not vacant (in terms of a permanent representative) for more than 10 Working Days. Any replacement shall be as, or more qualified and experienced as the previous incumbent and fully competent to carry out the tasks assigned to the Key Personnel whom they have replaced. A temporary replacement shall be identified with immediate effect from the Supplier or the Authority becoming aware of the role becoming vacant.

5.5 The Authority may require the Supplier to remove, or procure the removal of, any of its Key Personnel whom it considers, acting objectively and reasonably, to be unsatisfactory for any reason which has a material impact on the Services.

5.6 If the Supplier replaces the Key Personnel as a consequence of this clause 5, the cost of effecting such replacement shall be borne by the Supplier.

6 Monitoring

6.1 The Authority may monitor the performance of the Services by the Supplier at its discretion.

6.2 The Supplier shall co-operate with the Authority in carrying out the monitoring referred to in clause 6.1 at no additional charge to the Authority.

7 Dispute Resolution

7.1 If a Dispute arises then except as expressly provided in this Agreement, 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 of both the Authority and the Supplier shall attempt in good faith to resolve the Dispute;
- (b) if the Authorised Representatives of the Authority and the Supplier are for any reason unable to resolve the Dispute within 14 days of service of the Dispute Notice, the Dispute shall be referred to senior officers of both the Authority and the Supplier who shall attempt in good faith to resolve it; and
- (c) if the senior officers of the Authority and the Supplier are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure. Unless otherwise agreed between the parties, the mediator shall be nominated by CEDR Solve. 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. The mediation will start not later than 30 days after the date of the ADR notice.

7.2 The Supplier shall continue to provide the Services in accordance with the terms of this Call-Off Contract until a Dispute has been resolved.

7.3 The commencement of mediation shall not prevent the parties commencing or continuing court proceedings in relation to the Dispute under clause 31 and clause 32 which shall apply at all times.

7.4 If the Dispute is not resolved within 60 days after service of the ADR notice, or either party fails to participate or to continue to participate in the mediation before the expiration of the said period of 60 days, or the mediation terminates before the expiration of the said period of 60 days, the Dispute

shall be finally resolved by the courts of England and Wales in accordance with clause 31 and clause 32 of these General Provisions.

8 Subcontracting and Assignment

- 8.1 The Supplier shall not be entitled to assign, novate, subcontract or otherwise dispose of any or all of its rights and obligations under this Agreement or any subsequent Call-Off Contract without the prior written consent of the Authority or the Customer. If the Authority or the Customer consent to any subcontracting by the Supplier, the Supplier shall remain responsible for all acts and omissions of its Sub-Contractors as if they were its own.
- 8.2 The Supplier shall not subcontract the whole or any part of its obligations under this Agreement or any subsequent Call-Off Contract or permit a Sub-Contractor approved under this Agreement or any subsequent Call-Off Contract to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement or any subsequent Call-Off Contract, except with the express prior written consent of the Authority or the Customer.
- 8.3 In the event that the Supplier enters into any Sub-Contract in connection with this Agreement or any subsequent Call-Off Contract it shall:
- (a) remain responsible to the Authority or the Customer for the performance of its obligations under this Agreement or any subsequent Call-Off Contract notwithstanding the appointment of any Sub-Contractor and be responsible for the acts, omissions and neglects of its Sub-Contractors and shall indemnify and keep indemnified the Authority and/or the Customer against any loss or claim arising from the failure of the Sub-Contractor or an employee of the Sub-Contractor in the performance of the duties of the Sub-Contractor to provide the Services on behalf of the Supplier under this Agreement or any subsequent Call-Off Contract;
 - (b) impose obligations on its Sub-Contractor in the same terms as those imposed on it pursuant to this Agreement or any subsequent Call-Off Contract and shall procure that the Sub-Contractor complies with such terms and, if necessary, impose obligations on any further sub-contractors in its sub-contract pursuant to this Agreement or any subsequent Call-Off Contract;
 - (c) provide a copy, at no charge to the Authority or the Customer, of any such Sub-Contract on receipt of a request from the Authority's or the Customer's Authorised Representative.
- 8.4 The Authority shall be entitled to novate this Agreement and the Customer shall be entitled to novate any subsequent Call-Off Contract to any other body which subsequently performs any of the functions that previously had been performed by the Authority or the Customer.
- 8.5 The Authority or the Customer may, by notice in writing to the Supplier, require the Supplier immediately (or as specified in the notice) to cease to engage a specified Sub-Contractor for the performance of any of its obligations under this Agreement or any subsequent Call-Off Contract where any of the circumstances specified in Regulation 57(1) or (8) of the Public Contracts Regulations 2015 applies to the Sub-Contractor.

9 Insurance

During the term of this Agreement, the Supplier shall at its own cost effect and maintain in force, with a reputable insurance company, the insurances referred to in the tender documents and the Supplier will provide the Authority with evidence of such insurance on reasonable request.

10 Freedom of Information and Transparency Obligations

- 10.1 The Supplier acknowledges that the Authority is subject to the requirements of the FOIA and the EIRs and transparency obligations under the Public Contracts Regulations 2015, and shall assist and co-operate with the Authority (at the Supplier's expense) to enable the Authority to comply with its obligations under the FOIA and the EIRs and its transparency obligations under the Public Contracts Regulations 2015.
- 10.2 The Supplier shall and shall procure that its Sub-Contractors shall:
- (a) transfer any Request for Information to the Authority as soon as practicable after receipt and in any event within 5 Working Days of receiving a Request for Information;

- (b) provide the Authority with a copy of all Information in its possession or power in the form that the Authority requires within 5 Working Days (or such other period as the Authority may specify) of the Authority requesting that Information; and
 - (c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the EIRs.
- 10.3 The Authority shall be responsible for determining at its absolute discretion whether the Confidential Information and/or any other Information:
 - (a) is exempt from disclosure in accordance with the provisions of the FOIA or the EIRs; and/or
 - (b) is to be disclosed in response to a Request for Information.
- 10.4 In no event shall the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Authority.
- 10.5 The Supplier acknowledges that the Authority may be required under the FOIA and EIRs to disclose Information (including Confidential Information) without consulting or obtaining consent from the Supplier. The Authority shall take reasonable steps to notify the Supplier of a Request For Information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is permissible and reasonably practical for it to do so but (notwithstanding any other provision in this Contract) the Authority shall be responsible for determining in its absolute discretion whether any Confidential Information and/or any other information is exempt from disclosure in accordance with the FOIA and/or the EIRs. The Supplier shall ensure that all Information produced in the course of the Agreement or relating to the Agreement is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.
- 10.6 The Supplier acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with clause 10.5.
- 10.7 The Supplier acknowledges that the United Kingdom Government's transparency agenda, including the transparency obligations under the Public Contracts Regulations 2015, requires that contracts, such as the Agreement, and any tender document, such as the invitation to tender and certain other information, are published on a designated, publicly searchable website and the Supplier consents to such publication.
- 10.8 The Supplier acknowledges that, except for any information which is exempt from disclosure in accordance with the provisions of FOIA, the content of the Agreement is not Confidential Information. The Authority shall be responsible for determining in their absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of FOIA.
- 10.9 Notwithstanding any other term of the Agreement, the Supplier hereby consents to the Authority publishing the Agreement in its entirety, (but with any information which is exempt from disclosure in accordance with the provisions of FOIA redacted) including from time to time agreed changes to the Agreement, to the general public.
- 10.10 The Supplier shall assist and co-operate with the Authority to enable the Authority to publish this Agreement.

11 Data Protection

- 11.1 The Supplier shall (and shall procure that any of its Supplier's Personnel involved in the provision of the Services called off under this Agreement shall) comply with any notification requirements under Data Protection Legislation and both Parties shall duly observe all their obligations under Data Protection Legislation, which arise in connection with the Agreement.
- 11.2 Notwithstanding the general obligation in clause 11.1, where the Supplier is processing Personal Data as a Data Processor for the Authority, the Supplier shall ensure that it has in place appropriate

technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under Data Protection Legislation; and

- (a) provide the Authority with such information as the Authority may reasonably require to satisfy itself that the Supplier is complying with its obligations under Data Protection Legislation;
 - (b) within 24 hours of the Supplier becoming aware of the breach occurring, notify the Authority of any breach and of the security measures required to be put in place pursuant to this clause 11.2;
 - (c) co-operating with the Authority and/or any relevant regulatory body in carrying out any investigation by providing information requested by the Authority and/or relevant regulatory body within the timescales required;
 - (d) allow the Authority's and/or the regulatory body's representatives access to Supplier premises, systems and data for the purposes of any investigation, inspection or audit; and
 - (e) ensure it does not knowingly or negligently do or omit to do anything which places the Authority in breach of the Authority's obligations under Data Protection Legislation.
- 11.3 The Supplier shall not engage another processor without prior written authorisation from the Authority. The Supplier shall inform the Authority of any intended changes concerning the addition or replacement of other processors giving the Authority the opportunity to object. All additional or replacement processors are required to sign the Authority's Data Processing Agreement.
- 11.4 The Supplier shall indemnify the Authority against all liabilities, costs, expenses, damages and **direct losses** (calculated on a full indemnity basis) and all other reasonable professional costs and expenses suffered or incurred by, or awarded against the Authority arising from any breach of the Supplier's obligations in this clause 11 except and to the extent that such liabilities have resulted directly from the Authority's instructions **or its own obligations as data controller under the Data Protection Legislation**.

12 Confidentiality

- 12.1 Subject to clause 12.2, each party shall keep the other party's Confidential Information confidential and shall not use such Confidential Information except for performing its rights and obligations under this Agreement and any subsequent Call-Off Contract.
- 12.2 Clause 12.1 shall not apply to any disclosure of information:
- (a) required by any applicable law;
 - (b) that is reasonably required by persons engaged by a Party in the performance of that Party's obligations under this Framework Agreement;
 - (c) that is reasonably required by Other Contracting Bodies;
 - (d) 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 12.1;
 - (e) by the Authority of any document to which it is a party and which the Parties to this Framework Agreement have agreed contains no Confidential Information;
 - (f) to enable a determination to be made under clause 7;
 - (g) which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party, and the disclosing party is not under any obligation of confidence in respect of that information;
 - (h) by the Authority to any other department, office or agency of the government, provided that the Authority informs the recipient of any duty of confidence owed in respect of the information; and
 - (i) by the Authority relating to this Framework Agreement and in respect of which the Supplier has given its prior written consent to disclosure.

13 Audit

- 13.1 During the Term and for a period of 7 years after the Termination Date, the Authority may conduct or be subject to an audit for the following purposes;
- (a) to verify the accuracy of Charges (and proposed or actual variations to them in accordance with this Agreement) and/or the costs of all Suppliers (including Sub-Contractors) of the Services;
 - (b) to review the integrity, confidentiality and security of any data relating to the Authority or any service users;
 - (c) to review the Supplier's compliance with Data Protection Legislation and the FOIA in accordance with clause 11 and clause 10 and any other legislation applicable to the Services;
 - (d) to review any records created during the provision of the Services;
 - (e) to review any books of account kept by the Supplier in connection with the provision of the Services;
 - (f) to carry out the audit and certification of the Authority's accounts;
 - (g) to carry out an examination pursuant of the economy, efficiency and effectiveness with which the Authority has used its resources;
 - (h) to verify the accuracy and completeness of the Management Reports (if applicable) and any other management information delivered or required by this Agreement.
- 13.2 The Authority shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services.
- 13.3 Subject to the Authority's obligations of confidentiality, the Supplier shall on demand provide the Authority and any relevant regulatory body (and/or their agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:
- (a) all information requested by the above persons within the permitted scope of the audit;
 - (b) reasonable access to any sites controlled by the Supplier and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services; and
 - (c) access to the Supplier's Personnel.
- 13.4 The Authority shall endeavour to (but is not obliged to) provide at least 15 days' notice of its or, where possible, a regulatory body's, intention to conduct an audit.
- 13.5 The parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause, unless the audit identifies a material failure to perform its obligations under this Agreement in any material manner by the Supplier in which case the Supplier shall reimburse the Authority for all the Authority's reasonable costs incurred in the course of the audit.
- 13.6 If an audit identifies that:
- (a) the Supplier has failed to perform its obligations under this Agreement in any material manner; the parties shall agree and implement a remedial plan. If the Supplier's failure relates to a failure to provide any information to the Authority about the Charges, proposed Charges or the Supplier's costs, then the remedial plan shall include a requirement for the provision of all such information;
 - (b) the Authority has overpaid any Charges, the Supplier shall pay to the Authority the amount overpaid within 20 Working Days. The Authority may deduct the relevant amount from the Charges if the Supplier fails to make this payment; and
 - (c) the Authority has underpaid any Charges, the Authority shall pay to the Supplier the amount of the under-payment less the cost of audit incurred by the Authority if this was due to a default by the Supplier in relation to invoicing within 20 Working Days.

14 Suspension of Supplier's Appointment

- 14.1 The Authority may suspend the Supplier's right to receive Orders against any or all of the Lots awarded to them where:
- (a) the Supplier fails to respond to any Direct Award or Further Competitions in any six month rolling period; or
 - (b) three instances of any one or more of the following occur in any 12 month rolling period:
 - (i) a quote deadline is not met;
 - (ii) a proof deadline is not met;
 - (iii) a delivery deadline is not met;
 - (iv) the printed material supplied is of poor quality and/or does not match the proof;
 - (v) any other issues in relation to the quality of the material supplied;
 - (vi) complaints are not acknowledged and/or addressed in a timely manner.
- 14.2 The Supplier shall be given the opportunity to provide an explanation before a decision to suspend is made.
- 14.3 Without prejudice to the Authority's rights to terminate the Framework Agreement in clause 15 if a right to terminate this Framework Agreement arises in accordance with clause 15, the Authority may suspend the Supplier's right to receive Orders from Customers in any or all Supplier's Lots by giving notice in writing to the Supplier. If the Authority provides notice to the Supplier in accordance with this clause 14, the Supplier's appointment shall be suspended for the period set out in the notice or such other period notified to the Supplier by the Authority in writing from time to time.

15 Termination for Breach

- 15.1 The Authority may terminate this Agreement with immediate effect by the service of written notice on the Supplier in the following circumstances:
- (a) if the Supplier is in breach of any material obligation under this Agreement provided that if the breach is capable of remedy or the Authority has served the Supplier with a Default Notice, the Authority may only terminate this Agreement under this clause 15 if the Supplier has failed to remedy such breach within 28 days of receipt of notice from the Authority (a Remediation Notice) to do so;
 - (b) if a Service Failure Default has occurred;
 - (c) if a Catastrophic Failure has occurred;
 - (d) if an Insolvency Event has occurred;
 - (e) if the Supplier ceases or threatens to cease to carry on business in the United Kingdom;
 - (f) if there is a change of control (as defined in section 1124 of the Corporation Tax Act 2010) of the Supplier to which the Customer reasonably objects;
 - (g) where the Supplier has already been subject to two suspensions and, in accordance with clause 14 would be subject to a further suspension. The Supplier shall be given the opportunity to provide an explanation before a decision to terminate is made; or
 - (h) in accordance with clause 19.
- 15.2 The Authority may terminate this Agreement by giving not less than 30 days written notice on the Supplier in any of the following circumstances:
- (a) the Agreement has been subject to a substantial modification which would have required a new procurement procedure in accordance with regulation 72(9) of the Public Contracts Regulations 2015;
 - (b) at the Commencement Date one of the situations referred to in regulation 57(1) of the Public Contracts Regulations 2015 (including as a result of the application of regulation 57(2)) applied:
 - i. to the Supplier such that it should have been excluded from the procurement procedure; or

- ii. to a Sub-Contractor on which the Supplier relied in its tender to the Authority for this Agreement and the Supplier does not cease to engage that Sub-Contractor within 30 days of a notice from the Authority requiring the Supplier to cease to engage that Sub-Contractor; or
- (c) the Agreement should not have been awarded to the Supplier in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the EU in a procedure pursuant to Article 258 of TFEU.

15.3 If this Agreement is terminated by the Authority for cause in accordance with clause 15.1 or 15.2 such termination shall be at no loss or cost to the Authority.

16 Termination on Notice

16.1 The Authority may terminate this Agreement at any time by giving not less than 30 days written notice to the Supplier.

16.2 Any individual member of the Authority in respect of an applicable Authority Premises may terminate this Agreement in so far as it relates to an applicable named Authority Premises at any time by the service of 30 days written notice on the Supplier.

17 Termination of the Framework Agreement

The Authority shall have the right to terminate this Framework Agreement, or to terminate the provision of any part of the Framework Agreement at any time by giving a minimum of three months' written notice to the Supplier and all other Framework Providers. The Parties acknowledge that if the Authority exercises its rights under this clause 17 it shall exercise its equivalent rights under all agreements with the Framework Providers.

18 Not Used

19 Prevention of Bribery

19.1 The Supplier:

- (a) shall not, and shall procure that any Supplier Party and all Supplier Personnel shall not, in connection with this Agreement commit a Prohibited Act;
- (b) shall not do or suffer anything to be done which would cause the Authority or any of the Authority'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;
- (c) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Authority, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Authority before execution of this Agreement.

19.2 The Supplier represents and warrants that neither it, nor to the best of its knowledge any Supplier Party or Supplier Personnel, have at any time prior to the Commencement 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.

19.3 The Supplier shall:

- (a) if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

(b) within 30 Working Days of the Commencement Date, and annually thereafter, certify to the Authority in writing (such certification to be signed by an officer of the Supplier) compliance with this clause 19 by the Supplier and all persons associated with it or other persons who are supplying goods or services in connection with this Agreement. The Supplier shall provide such supporting evidence of compliance as the Authority may reasonably request.

19.4 The Supplier shall establish, maintain and enforce, and require that its Sub-Contractors establish, maintain and enforce, an anti-bribery policy (which shall be disclosed to the Authority) to prevent any Supplier Party or Supplier Personnel from committing a Prohibited Act and that are compliant with the Bribery Act and shall enforce it where appropriate.

19.5 If any breach of clause 19.1 or clause 19.2 is suspected or known, the Supplier must notify the Authority immediately.

19.6 If the Supplier notifies the Authority that it suspects or knows that there may be a breach of clause 19.1 or clause 19.2, the Supplier must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documentation.

19.7 The Authority may terminate this Agreement by written notice with immediate effect if the Supplier, Supplier Party or Supplier Personnel (in all cases whether or not acting with the Supplier's knowledge) breaches clause 19.1 or clause 19.2. The expression "not acting independently of" (when used in relation to the Supplier or a Sub-Contractor) means and shall be construed as acting:

(a) with the Authority; or,

(b) with the actual knowledge;

of any one or more of the directors of the Supplier or the Sub-Contractor (as the case may be); or

(c) in circumstances where any one or more of the directors of the Supplier ought reasonably to have had knowledge.

19.8 Any notice of termination under clause 19.7 must specify:

(a) the nature of the Prohibited Act;

(b) the identity of the party whom the Authority believes has committed the Prohibited Act; and

(c) the date on which this Agreement will terminate.

19.9 Despite clause 7, any dispute relating to:

(a) the interpretation of clause 19; or

(b) the amount or value of any gift, consideration or commission,

shall be determined by the Authority and its decision shall be final and conclusive.

19.10 Any termination under clause 19.7 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

20 Non-solicitation

Neither party shall (except with the prior written consent of the other) during the term of this Agreement or any subsequent Call-Off Contract, and for a period of one year thereafter, solicit the services of any senior staff of the other party who have been engaged in the provision of the Services or the management of this Agreement or any subsequent Call-Off Contract.

21 Waiver

No forbearance or delay by a party in enforcing its respective rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of contractual terms will be deemed to be a waiver of any other rights or any later breach. In particular, but without limitation to the generality of the foregoing, any prior acceptance or approval communicated by the Authority or the Customer to the Supplier in respect of the Services or any omission on the part of the Authority or the Customer to communicate such prior acceptance or approval shall not relieve the Supplier of its obligations to deliver the Services in accordance with the provisions of this Agreement.

22 Accumulation of Remedies

Subject to the specific limitations set out in this Agreement, no remedy conferred by any provision of this Agreement is intended to be exclusive of any other remedy except as expressly provided for in this Agreement and each and every remedy shall be cumulative and shall be in addition to every other remedy given there under or existing at law or in equity by statute or otherwise.

23 Severability

If any provision or part-provision of this Agreement 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 Agreement.

24 Partnership or Agency

24.1 Nothing in this Agreement shall be construed as constituting a partnership between the parties or as constituting either party as the agent of the other for any purpose whatsoever except as specified by the terms of this Agreement.

24.2 Each party confirms that it is acting on its own behalf and not for the benefit of any other person.

25 Third Party Rights

No one other than a party to this Agreement, their successors and permitted assignees, shall have any right to enforce any of its terms.

26 Publicity

26.1 Unless otherwise directed by the Authority, the Supplier shall not make any press announcements or publicise this Framework Agreement in any way without the User Authority's prior written consent.

26.2 The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation on the Authority, including any examination of this Framework Agreement by the Auditor or otherwise.

26.3 The Supplier shall not do anything that may damage the reputation of the Authority or bring the Authority into disrepute.

27 Notices

27.1 Except as otherwise expressly provided within this Agreement, no notice or other communication from one Party to the other shall have any validity under the Framework Agreement unless made in writing by or on behalf of the Party sending the communication.

27.2 Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), (confirmed by letter). Such letters shall be addressed to the other Party in the manner referred to in clause 4 of the Key Provisions. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two Working Days after the day on which the letter was posted, or four hours, in the case of e-mail or fax or sooner where the other Party acknowledges receipt of such letters, or fax or e-mail.

27.3 For the purposes of clause 27.2, the address of each Party shall be as stated in clause 4 of the Key Provisions.

27.4 Either Party may change its address for service by serving a notice in accordance with this clause.

28 Complaints Handling and Resolution

28.1 The Supplier shall notify the Authority of any Complaint made by Other Contracting Bodies within five Working Days of becoming aware of that Complaint and such notice shall contain full details of the Supplier's plans to resolve such Complaint.

28.2 Without prejudice to any rights and remedies that a complainant may have at Law, including under the Framework Agreement or any subsequent Call-Off Contract, and without prejudice to any obligation of the Supplier to take remedial action under the provisions of the Framework Agreement or any subsequent Call-Off Contract, the Supplier shall use its best endeavours to resolve the Complaint within ten Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

29 Changes to the Framework Agreement

29.1 No Change to this Agreement shall be effective unless it is processed in accordance with the Framework Agreement Variation Procedure set out in Schedule 9.

30 Entire Agreement

30.1 This Framework Agreement, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and supersedes all prior agreements, arrangements and understandings between the parties relating to that subject matter, provided that nothing in this clause 30 shall operate to exclude any liability for fraud.

30.2 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 Framework Agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation or negligent misstatement based on any statement in this Framework Agreement.

31 Governing Law

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

32 Jurisdiction

The parties irrevocably agree 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 Framework or its subject matter or formation (including non-contractual disputes or claims).

This Agreement has been entered into on the date the beginning of it.

Schedule 3 Award Procedures

1. If a Customer decides to source Services through the Framework Agreement then it may only do so in accordance with the terms for award set out in this Schedule 3.
2. The call-off requirements for awarded Sub-lots are provided in Appendix A3 to this Schedule 3.
3. **Responsibility for Awards**
 - 3.1 The Supplier acknowledges that each Customer is independently responsible for the conduct of its award of Contracts under the Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:
 - (a) the conduct of Other Contracting Bodies in relation to the Framework Agreement; or
 - (b) the performance or non-performance of any Contracts between the Supplier and Other Contracting Bodies entered into pursuant to the Framework Agreement.
4. **Form of Order**
 - 4.1 Subject to clause 2 above, a Customer may place an Order with the Supplier by serving an order in writing in substantially the form set out in Schedule 10 or such similar or analogous form agreed with the Supplier including systems of ordering involving fax, e-mail or other online solutions.
5. **Accepting and Declining Orders**
 - 5.1 Following receipt of an Order, the Supplier shall promptly and in any event within a reasonable period determined by the Customer and notified to the Supplier in writing at the same time as the submission of the Order (which in any event shall not exceed three Working Days) acknowledge receipt of the Order and either:
 - (a) notify the Customer in writing and with detailed reasons that it is unable to fulfil the Order; or
 - (b) notify the Customer that it is able to fulfil the Order by signing and returning the Order Form.
 - 5.2 If the Supplier:
 - (a) notifies the Customer that it is unable to fulfil an Order; or
 - (b) the time limit referred to in the Order Form has expired;then the Order shall lapse and the Customer may then send that Order to another Framework Provider in accordance with the procedure set out in Appendix A3].
 - 5.3 If the Supplier modifies or imposes conditions on the fulfillment of an Order, then the Customer may either:
 - (a) reissue the Order incorporating the modifications or conditions; or
 - (b) treat the Supplier's response as notification of its inability to fulfil the Order and the provisions of clause 5.2 shall apply.
 - 5.4 The Parties acknowledge and agree that the placement of an Order is an "invitation to treat" by the Customer. Accordingly, the Supplier shall sign and return the Order Form which shall constitute its offer to the Customer. The Customer shall signal its acceptance of the Supplier's offer and the formation of a Contract by counter-signing the Order Form.
6. **Contract Performance and Precedence of Documents**
 - 6.1 The Supplier shall perform all Contracts entered into with the Customer in accordance with:
 - (a) the requirements of this Framework Agreement; and
 - (b) the terms and conditions of the respective Call-off Contract.
 - 6.2 In the event of, and only to the extent of, any conflict or inconsistency between the terms and conditions of this Framework Agreement and the terms and conditions of a Call-Off Contract, such conflict or inconsistency shall be resolved according to the order of priority set in out in clause 5 of the Key Provisions.

6.3 Prices for Services

- 6.4 The prices offered by the Supplier for Contracts to Customers for Standard Services shall be the prices listed in the Pricing Matrix for the relevant Lot and such prices shall be adjusted in accordance with the provisions of Schedule 8.
- 6.5 The prices offered by the Supplier for Contracts to Customers for Competed Services shall be based on the prices set out in the Pricing Matrices and tendered in accordance with the requirements of the further competition held pursuant to Schedule 3.

Appendix A3

Guidance: To be amended as appropriate to the sub-lot(s) awarded to the Supplier.

[Call-Off Procedure Sub-lot 1A Bulk Mail Fulfillment

1. Direct Award

1.1 The Customer may Direct Award to the highest ranked Supplier for:

1.1.1 daily bulk mail fulfilment requirements. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, the next ranked Supplier will be offered the work, and so on until the requirement can be fulfilled; or

1.1.2 periodic (i.e. monthly/quarterly/biannual/annual) bulk mail fulfilment requirements or requirements that have not been generated by the Authority's Automated Document Factory/Hybrid Mail system in cases where the turnaround time does not allow for a Further Competition. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, the next ranked Supplier will be offered the work, and so on until the requirement can be fulfilled.

2. Further Competition

2.1 Where a periodic (i.e. monthly/quarterly/biannual/annual) bulk mail fulfilment requirement arises or there is a requirement that has not been generated by the Authority's Automated Document Factory/Hybrid Mail system, the Customer may conduct a Further Competition in the following way:

2.1.1 The Customer will contact each Supplier with a request to submit a quotation, based on the specific requirements;

2.1.2 Suppliers must ensure that they have the capacity to fulfil the order when the quote request is received;

2.1.3 All quotes must be valid for a three month period. Jobs may be sent to print at any point during this period;

2.1.4 Award will be made on the basis of the lowest price, however the Customer reserves the right to reject any quotes on the basis of quality of the proofs provided either post award or at quote stage. Where the Customer rejects a quote on the basis of quality, the work will be offered to the next ranked Supplier for that Further Competition.]

[Call-off Procedure Sub-lot 1B Bulk and Digital Jobbing Print

1. Direct Award

1.1 The Council may Direct Award to the highest ranked Supplier within the relevant Lot where:

- 1.1.1 their tender prices are deemed to offer best value for the Council. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, a Further Competition will be undertaken; or
- 1.1.2 the turnaround time does not allow for a Further Competition. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, the next ranked Supplier will be offered the work, and so on until the requirement can be fulfilled; or
- 1.1.3 For reprints from standing artwork, the Council reserves the right to engage with the original Supplier to ensure best value and/or continuity of goods/service. The prices for the repeat work must be in line with the original quotation.

2. Further Competition

2.1 Where the requirement does not fulfil the criteria for a Direct Award, a Further Competition will be conducted in the following way:

- 2.1.1 When a printing requirement arises, the Council will contact each Supplier on the relevant lot with a request to submit a quotation, based on the specific requirements;
- 2.1.2 Suppliers must ensure that they have the capacity to fulfil the order when the quote request is received;
- 2.1.3 All quotes must be valid for a three month period. Jobs may be sent to print at any point during this period;
- 2.1.4 Award will be made on the basis of the lowest price, however the Council reserves the right to reject any quotes on the basis of quality of the proofs provided either post award or at quote stage. Where the Council rejects a quote on the basis of quality, the work will be offered to the next ranked Supplier for that Further Competition;
- 2.1.5 Delivery will be in the majority of cases to Torquay, although some requirements may require delivery to alternative sites or delivery points.

[Call-off Procedure Sub-lot 1C Display

1. Direct Award

1.1 The Council may Direct Award to the highest ranked Supplier within the relevant Lot where:

- 1.1.1 their tender prices are deemed to offer best value for the Council. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, a Further Competition will be undertaken; or
- 1.1.2 the turnaround time does not allow for a Further Competition. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, the next ranked Supplier will be offered the work, and so on until the requirement can be fulfilled; or
- 1.1.3 For reprints from standing artwork, the Council reserves the right to engage with the original Supplier to ensure best value and/or continuity of goods/service. The prices for the repeat work must be in line with the original quotation.

2. Further Competition

2.1 Where the requirement does not fulfil the criteria for a Direct Award, a Further Competition will be conducted in the following way:

- 2.1.1 When a printing requirement arises, the Council will contact each Supplier on the relevant lot with a request to submit a quotation, based on the specific requirements;
- 2.1.2 Suppliers must ensure that they have the capacity to fulfil the order when the quote request is received;
- 2.1.3 All quotes must be valid for a three month period. Jobs may be sent to print at any point during this period;
- 2.1.4 Award will be made on the basis of the lowest price, however the Council reserves the right to reject any quotes on the basis of quality of the proofs provided either post award or at quote stage. Where the Council rejects a quote on the basis of quality, the work will be offered to the next ranked Supplier for that Further Competition;
- 2.1.5 Delivery will be in the majority of cases to Torquay, although some requirements may require delivery to alternative sites or delivery points.]

[Call-off Procedure Sub-lot 1D Envelopes

1. Direct Award

1.1 The Council may Direct Award to the highest ranked Supplier within the relevant Lot where:

- 1.1.1 their tender prices are deemed to offer best value for the Council. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, a Further Competition will be undertaken; or
- 1.1.2 the turnaround time does not allow for a Further Competition. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, the next ranked Supplier will be offered the work, and so on until the requirement can be fulfilled; or
- 1.1.3 For reprints from standing artwork, the Council reserves the right to engage with the original Supplier to ensure best value and/or continuity of goods/service. The prices for the repeat work must be in line with the original quotation.

2. Further Competition

2.1 Where the requirement does not fulfil the criteria for a Direct Award, a Further Competition will be conducted in the following way:

- 2.1.1 When a printing requirement arises, the Council will contact each Supplier on the relevant lot with a request to submit a quotation, based on the specific requirements;
- 2.1.2 Suppliers must ensure that they have the capacity to fulfil the order when the quote request is received;
- 2.1.3 All quotes must be valid for a three month period. Jobs may be sent to print at any point during this period;
- 2.1.4 Award will be made on the basis of the lowest price, however the Council reserves the right to reject any quotes on the basis of quality of the proofs provided either post award or at quote stage. Where the Council rejects a quote on the basis of quality, the work will be offered to the next ranked Supplier for that Further Competition;
- 2.1.5 Delivery will be in the majority of cases to Torquay, although some requirements may require delivery to alternative sites or delivery points.]

[Call-off Procedure Sub-lot 1E Electoral Printing]

1. Direct Award Only

1.1 Sub-lots 1F will be called-off through a Direct Award to the highest ranked Supplier only.

1.2 In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, the next ranked Supplier will be offered the work, and so on until the requirement can be fulfilled.

[Call-off Procedure Sub-lot 1F Parking Stationery

1. Direct Award

- 1.1 The Council may Direct Award to the highest ranked Supplier within the relevant Lot where:
- 1.1.1 their tender prices are deemed to offer best value for the Council. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, a Further Competition will be undertaken; or
 - 1.1.2 the turnaround time does not allow for a Further Competition. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, the next ranked Supplier will be offered the work, and so on until the requirement can be fulfilled; or
 - 1.1.3 For reprints from standing artwork, the Council reserves the right to engage with the original Supplier to ensure best value and/or continuity of goods/service. The prices for the repeat work must be in line with the original quotation.

2. Further Competition

- 2.1 Where the requirement does not fulfil the criteria for a Direct Award, a Further Competition will be conducted in the following way:
- 2.1.1 When a printing requirement arises, the Council will contact each Supplier on the relevant lot with a request to submit a quotation, based on the specific requirements;
 - 2.1.2 Suppliers must ensure that they have the capacity to fulfil the order when the quote request is received;
 - 2.1.3 All quotes must be valid for a three month period. Jobs may be sent to print at any point during this period;
 - 2.1.4 Award will be made on the basis of the lowest price, however the Council reserves the right to reject any quotes on the basis of quality of the proofs provided either post award or at quote stage. Where the Council rejects a quote on the basis of quality, the work will be offered to the next ranked Supplier for that Further Competition;
 - 2.1.5 Delivery will be in the majority of cases to Torquay, although some requirements may require delivery to alternative sites or delivery points.]

[Call-off Procedure Sub-lot 1G Pay and Display Tickets

1. Direct Award

1.1 The Council may Direct Award to the highest ranked Supplier within the relevant Lot where:

- 1.1.1 their tender prices are deemed to offer best value for the Council. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, a Further Competition will be undertaken; or
- 1.1.2 the turnaround time does not allow for a Further Competition. In the event the highest ranked Supplier is not able to fulfil the requirement, i.e. is unable to meet timescale and/or quality requirements and/or the price quoted exceeds the current Framework rates, the next ranked Supplier will be offered the work, and so on until the requirement can be fulfilled; or
- 1.1.3 For reprints from standing artwork, the Council reserves the right to engage with the original Supplier to ensure best value and/or continuity of goods/service. The prices for the repeat work must be in line with the original quotation.

2. Further Competition

2.1 Where the requirement does not fulfil the criteria for a Direct Award, a Further Competition will be conducted in the following way:

- 2.1.1 When a printing requirement arises, the Council will contact each Supplier on the relevant lot with a request to submit a quotation, based on the specific requirements;
- 2.1.2 Suppliers must ensure that they have the capacity to fulfil the order when the quote request is received;
- 2.1.3 All quotes must be valid for a three month period. Jobs may be sent to print at any point during this period;
- 2.1.4 Award will be made on the basis of the lowest price, however the Council reserves the right to reject any quotes on the basis of quality of the proofs provided either post award or at quote stage. Where the Council rejects a quote on the basis of quality, the work will be offered to the next ranked Supplier for that Further Competition;
- 2.1.5 Delivery will be in the majority of cases to Torquay, although some requirements may require delivery to alternative sites or delivery points.]

Schedule 4 Definitions and Interpretation

1 The definitions and rules of interpretation in this clause apply in this Framework Agreement.

Approval: means the prior written approval of the Authority.

Audit: means an audit carried out pursuant to clause 13 of the General Provisions.

Auditor: means the National Audit Office or an auditor appointed by the Authority as the context requires.

Authority means Torbay Council

Authorised Representative: means the persons respectively designated as such by the Authority and the Supplier.

Award Criteria: means the Standard Services Award Criteria and/or the Competed Services Award Criteria as the context requires.

Call-off Terms and Conditions: means the terms and conditions in Schedule 12.

Change of Control: means a change of control within the meaning of section 1124 of the Corporation Tax Act 2010.

Commencement Date: means the date on the front sheet.

Competed Services: means the competed services set out in Schedule 5.

Competed Services Award Criteria: means the award criteria to be applied to Supplemental Tenders received through mini-competitions held for the award of Contracts for Competed Services as set out in Schedule 3 and the Order Form.

Complaint: means any formal complaint raised by the Authority in relation to the performance under the Framework Agreement or any Contract in accordance with clause Schedule 228 of the General Provisions.

Confidential Information: means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Supplier, including intellectual property rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.

Contract: means a legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Services made between the Authority and the Supplier comprising an Order Form, its appendices, and the Call-off Terms and Conditions (as may be amended pursuant to Schedule 3).

Customer: means the Authority and any Other Contracting Authority (as defined in regulation 2 of the Regulations) described in the OJEU Notice.

Default: means any breach of the obligations of the relevant Party under a Contract (including fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other.

Data Protection Legislation: means all current UK legislation that relates to Data Protection.

Environmental Information Regulations: mean the Environmental Information Regulations 2004 (SI 2004/3391) (EIR) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.

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.

Framework Agreement: means this agreement and all Schedules to this agreement.

Framework Agreement Variation Procedure: means the procedure set out in Schedule 9.

Framework Providers: means the Supplier and other contractors appointed as framework providers under this Framework Agreement.

Framework Year: means a period of 12 months, commencing on the Commencement Date.

Guarantee: or **Indemnity** means the deed of guarantee in favour of the Authority or relevant Other Contracting Body entered into by the Guarantor (which is in the form set out in clause 17 of the General

Provisions) or any guarantee acceptable to the Authority or the relevant Other Contracting Body that replaces it from time to time.

Guarantor: means the organisation providing the Guarantee or Indemnity.

Guidance: means any guidance issued or updated by the UK government from time to time in relation to the Regulations.

Information: has the meaning given under section 84 of the FOIA.

Intellectual Property Rights: means patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including the United Kingdom) and the right to sue for passing off.

Law: means any applicable Act of Parliament, subordinate legislation within the meaning of section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body.

Lots: means the Services divided into lots as referred to in the OJEU Notice and set out in Schedule 5.

Management Information: means the management information specified in Schedule 11.

Month: means a calendar month.

OJEU Notice: means the contract notice [insert notice number and date of publication] published in the Official Journal of the European Union.

Order: means an order for Services sent by the Authority to the Supplier in accordance with the award procedures in Schedule 3.

Order Form: means a document setting out details of an Order in the form set out in Schedule 9 or as otherwise agreed in accordance with Schedule 3.

Other Contracting Authorities: means existing or future Authority subsidiary companies and Authority shared services.

Parent Company: means any company which is the ultimate Holding Company of the Supplier and which is either responsible directly or indirectly for the business activities of the Supplier or which is engaged in the same or similar business to the Supplier.

Holding Company shall have the meaning ascribed by section 1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto.

Party: means the Authority and/or the Supplier.

SQ Response: means the response to the selection questionnaire submitted by the Supplier to the Authority on [insert tender submission date].

Pricing Matrices: means the pricing matrices set out in Schedule 8.

Prohibited Act: the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Framework Agreement;
- (c) committing any offence:
 - (i) under the Bribery Act 2010;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to this Framework Agreement or any other contract with the Authority; or
- (d) defrauding, attempting to defraud or conspiring to defraud the Authority.

Regulations: means the Public Contracts Regulations 2015 (*SI 2015/102*).

Regulatory Bodies: means those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Framework Agreement or any other affairs of the Authority.

Requests for Information: means a request for information or an apparent request under the FOIA or the Environmental Information Regulations.

Services: means the services detailed in Schedule 6.

Staff: means all persons employed by the Supplier together with the Supplier's servants, agents, suppliers and subcontractors used in the performance of its obligations under this Framework Agreement or Contracts.

Standard Services: means the standard services referred to in Schedule 6.

Standard Services Award Criteria: means the award criteria to be applied for the award of Contracts for Standard Services as set out in Schedule 3.

Subcontract: means; any contract between the Supplier and a third party pursuant to which the Supplier agrees to source the provision of any of the Services from that third party and includes any contract between two or more contractors, at any stage of remoteness from the Authority 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.

Sub-contractor: the contractors or service providers that enter into a Subcontract with the Supplier.

Supplemental Tender: means the documents submitted to the Authority in response to the invitation to Framework Providers for formal offers to supply it with Competed Services.

Supplier's Lots: means the lots to which the Supplier has been appointed under this Framework Agreement as set out in Schedule 5.

Tender: means the tender submitted by the Supplier to the Authority on [insert ITT submission date].

Term: means the period commencing on the Commencement Date and ending on [insert initial term end date] or on earlier termination of this Framework Agreement.

Termination Date: means the date of expiry or termination of this Framework Agreement.

Working Days: means any day other than a Saturday, Sunday or public holiday in England and Wales.

Year: means a calendar year.

1.1. The interpretation and construction of this Framework Agreement shall all be subject to the following provisions:

- (a) words importing the singular meaning include where the context so admits the plural meaning and vice versa;
- (b) words importing the masculine include the feminine and the neuter;
- (c) the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
- (d) references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
- (e) references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
- (f) headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement;
- (g) the Schedules form part of this Framework Agreement and shall have effect as if set out in full in the body of this Framework Agreement and any reference to this Framework Agreement shall include the Schedules;
- (h) references in this Framework Agreement to any clause or sub-clause or Schedule without further

designation shall be construed as a reference to the clause or sub-clause or Schedule to this Framework Agreement so numbered;

- (i) references in this Framework Agreement to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to this Framework Agreement so numbered; and
- (j) reference to a clause is a reference to the whole of that clause unless stated otherwise.

Schedule 5 Services and Lots

Insert details of the lot(s) / sub-lots awarded to the Supplier

Schedule 6

Specification(s)

Insert the relevant service specification(s) here

Insert the suppliers Part 4 Award Questionnaire response here.

1 Pricing Revisions:

- 1.1 The prices offered by the Supplier in Part 5a Pricing shall be the maximum prices the Supplier can charge in relation to any Direct Award or Further Competition for at least the first year of this Framework Agreement.
- 1.2 The prices shall be reviewed annually in accordance with CPI/RPI and the volume of work undertaken. Where increased and/or decreased prices are agreed by the Authority for one or more Suppliers, all Suppliers shall be re-ranked in accordance with the revised prices.
- 1.3 Postage costs shall be reviewed annually in line with any Royal Mail price changes unless there is an interim postage variation, which will be reviewed separately.
- 1.4 Price variations shall not take effect until they have been mutually agreed by both parties in accordance with the Change Control Procedure at Schedule 9 of the Framework Agreement.
- 1.5 For most requirements pricing will be provided by the Supplier at the call-off stage, with prices provided for each individual call-off.

Insert the Supplier's submitted Part 5 Pricing here

Schedule 9 Framework Agreement Variation Procedure

1. Permitted Changes

- 1.1. Schedule 9 details the scope of the variations permitted and the process to be followed where the Authority proposes a variation to the Framework Agreement, including the Call-Off Contract.
- 1.2. The Authority may propose a variation to the Agreement under Schedule 9 only where the variation does not amount to a material change in the Agreement or the Services.
- 1.3. Changes to the Agreement shall be made only where:
 - (a) Such a Change is permitted by the Public Contracts Regulations 2015, Regulation 72(1)(b) to (f); or
 - (b) permitted under paragraph 1.4 below.
- 1.4. A Change is permitted where each of requirements (a) to (d) below is satisfied:
 - (a) the Change is of the following scope and nature:
 - i. delivering the Authority's requirements in a different way; or
 - ii. use of the Framework Agreement by Other Contracting Authorities.
 - (b) the price of the Change is calculated as follows:
 - i. in accordance with the Supplier's tender pricing submission; or
 - ii. in accordance with CPI/RPI.
 - (c) the circumstances necessitating the Change are:
 - i. technological advances; or
 - ii. strategic change of direction by the Authority;
 - iii. restructuring within the Authority;
 - iv. outsourcing and/or reduction of services;
 - v. acquisition and/or increase of services;
 - vi. changes in legislation and/or security standards.
 - (d) the Change does not alter the overall nature of the Agreement.

2. General Principles

- 2.1 Where the Authority or a Framework Provider sees a need to change this Agreement, the Authority may at any time request and a Framework Provider may at any time recommend, such Change only in accordance with the Change Control Procedure set out in clause 3 of this Schedule 9.
- 2.2 Until such time as a Change is made in accordance with the Change Control Procedure, the Authority and the Framework Providers shall continue to perform this Agreement in compliance with its terms before such Change.
- 2.3 Any discussions which may take place between the Authority and the Framework Providers in connection with a request or recommendation before the authorisation of a resultant Change shall be without prejudice to the rights of either party.
- 2.4 Any work undertaken by Framework Providers and the Framework Providers' Personnel 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 9 shall be undertaken entirely at the expense and liability of the Framework Provider.

3. Procedure for Proposing a Variation

Authority Request for Change

- 3.1 Except where clause 5 applies, the Authority may propose a variation using the procedure contained in this clause 3.
- 3.2 In order to propose a variation, the Authority shall serve each Framework Provider with written notice of the proposal to vary the Framework Agreement (**Notice of Variation**).
- 3.3 The Notice of Variation shall:
 - (a) contain details of the proposed variation providing sufficient information to allow each Framework Provider to assess the variation and consider whether any changes to the prices set out in its Pricing Matrices are necessary; and
 - (b) require each Framework Provider to notify the Authority within 28 days of any proposed changes to the prices set out in its Pricing Matrices.
- 3.4 On receipt of the Notice of Variation, each Framework Provider has 14 days to respond in writing with any objections to the variation.
- 3.5 Where the Authority does not receive any written objections to the variation within the timescales detailed in paragraph 2.4, the Authority may then serve each Framework Provider with a written agreement detailing the variation to be signed and returned by each Framework Provider within 7 days of receipt.
- 3.6 On receipt of a signed agreement from each Framework Provider, the Authority shall notify all Framework Providers in writing of the commencement date of the variation.

Framework Provider Request for Change

- 3.7 A recommendation to amend this Agreement by a Framework Provider shall be submitted directly to the Authority in the form of a Change Control Note signed by the Supplier at the time of such recommendation. The Authority shall give its response to the Change Control Note within three weeks.
- 3.8 Each Change Control Note shall contain:
 - (a) the title of the Change;
 - (b) the originator and date of the request or recommendation for the Change;
 - (c) the reason for the Change;
 - (d) full details of the Change, including any specifications;
 - (e) the price, if any, of the Change;
 - (f) a timetable for implementation, together with any proposals for acceptance of the Change;
 - (g) a schedule of payments if appropriate;
 - (h) details of the likely impact, if any, of the Change on other aspects of this Agreement including:
 - i. the timetable for the provision of the Change;
 - ii. the personnel to be provided;
 - iii. the Charges;
 - iv. the Documentation to be provided;
 - v. the training to be provided;
 - vi. working arrangements;
 - vii. other contractual issues;
 - viii. the date of expiry of validity of the Change Control Note; and
- 3.9 For each Change Control Note submitted by a Framework Provider the Authority shall, within the period of the validity of the Change Control Note:
 - (a) allocate a sequential number to the Change Control Note; and
 - (b) evaluate the Change Control Note and, as appropriate:

- i. request further information;
- ii. issue a Notice of Variation to the Framework Providers to be responded to in accordance with clauses 3.1 to 3.6 ; or
- iii. notify the Framework Provider of the rejection of the Change Control Note.

3.10 A formal variation signed by the Authority and each of the Framework Providers shall constitute an amendment to this Agreement.

4. Objections to a Variation

4.1 In the event that the Authority receives one or more written objections to a variation, the Authority may:

- (a) withdraw the proposed variation; or
- (b) propose an amendment to the variation.

5. Variations that are not Permitted

5.1 In addition to the provisions contained in clause 1, the Authority may not propose any variation that:

- (a) may prevent one or more of the Framework Providers from performing its obligations under the Framework Agreement; or
- (b) that results in a change to the tendered prices of one or more Framework Providers, save for those changes permitted within Schedule 8 of this Agreement; or
- (c) is in contravention of any Law.

ORDER FORM	
Framework Agreement	
FROM	
Authority	
Service address	
Invoice address	
Authorised representative	
Telephone number	
Email address	
Order number <i>(to be quoted on all correspondence relating to this order)</i>	
Order date	
TO	
Supplier	
Address	
For the attention of	
Telephone number	
Email address	
1. Job Specification	
1.1. Origination:	
1.2. Size:	
1.3. Material:	
1.4. Processes:	
1.5. Finishing:	
1.6. Quantity:	
1.7. Notes:	
2. Delivery date	
3. Delivery address	

4. Price payable by Authority	
5. Supplemental requirements in addition to Call-Off Terms and Conditions (if applicable)	
6. Variations to Call-Off Terms and Conditions (if applicable)	
7. Sub-contracted parts of the job (if applicable)	
8. Confidential Information	
8.1. The following information shall be deemed Confidential information	
8.2. Duration that the information shall be deemed Confidential information	
<p>BY SIGNING AND RETURNING THIS ORDER FORM THE SERVICE PROVIDER AGREES to enter a legally binding contract with the Authority to provide to the Authority the Services specified in this Order Form (together with, where completed and applicable, the further competition order (additional requirements) set out in section 2 of this Order Form) incorporating the rights and obligations in the Call-Off Terms and Conditions set out in the Framework Agreement entered into by the Supplier and the Authority on [date].</p>	
For and on Behalf of the Supplier	
Name and title	
Signature	
Date	
For and on behalf of the Authority	
Name and title	
Signature	
Date	
<p>Appendices Appendix 1: Specification for the Services Appendix 2: Supplier's Tender Appendix 3: Supplemental Tender for Competed Services (if applicable)</p>	

Schedule 11 Contract Management

Framework and Performance Reporting

The Supplier shall comply with the reporting requirements set out in the tender documents.

Appendix A11

Default Notice

This is a Default Notice given by the Authority to the Supplier under the Agreement or Call-Off Contract referred to below.

If the defaults referred to below are capable of remedy, it is important that the Supplier remedies those defaults. Failure to remedy the defaults may give rise to a right for the Authority to terminate the Agreement and/or Call-Off Contract.

Name of the Authority	
Name of the Supplier	
Contract Description	
Contract Commencement Date	
Details of Supplier's default	
Any additional information	
Details of agreed actions to remedy the default and timescales for completion	
Details of consequences of failing to meet timescales for completion of remedial actions	

Schedule 12 Call-Off Terms and Conditions

This Call-Off Contract is made on the date set out in the Order Form subject to the terms set out in the parts listed below (**Parts**). The Customer and the Supplier undertake to comply with the provisions of the Schedules in the performance of this Call-Off Contract.

The Supplier shall supply to the Customer, and the Customer shall receive and pay for, the Services on the terms of this Call-Off Contract.

The Definitions in Part 3 apply to the use of all capitalised terms in this Call-Off Contract.

Parts

Part 1	Key Provisions
Part 2	General Terms
Part 3	Definitions and Interpretations
Part 4	Data Processing Agreement

Part 1. Key Provisions

- (A) Documents that form part of this Call-Off Contract are
- (i) this Schedule 12; and
 - (ii) the Order Form and Customer Purchase Order.

Standard Key Provisions

1 Application of the Key Provisions

- 1.1 The standard Key Provisions at clauses 1 to 5 of these Key Provisions shall apply to this Call-Off Contract.
- 1.2 The optional Key Provisions at clauses 3 and 4 of these Key Provisions shall apply to this Call-Off Contract if they are set out in the section below. The tick boxes are purely for administrative purposes and have no bearing on the terms of this Call-Off Contract.
- 1.3 Extra Key Provisions shall only apply to this Call-Off Contract where such provisions are set out at the end of this Part 1

2 Term

This Call-Off Contract shall take effect on the date stated on the official Order Form or Customer Purchase Order and shall continue for the Term agreed at the quotation stage of the call-off process, unless terminated early in the event the proofs are not accepted by the Council or the Supplier is unable to meet the timescales for delivery.

<input type="checkbox"/>	3	Not used
<input type="checkbox"/>	4	Not used
<input type="checkbox"/>	5	Not used
<input checked="" type="checkbox"/>	6	Extending the Initial Term
	6.1	The Customer may, at its sole discretion, extend the Term of an individual call-off on a case by case basis, following a request by the Supplier, for the period required to complete the Call-Off Contract.

Additional Key Provisions

<input checked="" type="checkbox"/>	7	Supplier's Personnel used to provide the Services
	7.1	At all times, the Supplier shall ensure that: <ul style="list-style-type: none">(a) each of the Supplier's Personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged;(b) there is an adequate number of Supplier's Personnel to provide the Services properly;

	<ul style="list-style-type: none"> (c) only those people who are authorised by the Supplier (under the authorisation procedure to be agreed between the parties) are involved in providing the Services; (d) all of the Supplier's Personnel comply with all of the Customer's policies including those that apply to persons who are allowed access to the applicable Customer Premises; and (e) where the Services are regulated activities enabling the Supplier to obtain a Disclosure Barring Service (DBS) certificate, it holds a clear DBS certificate for each of the Supplier's Personnel. <p>7.2 The Supplier shall maintain up-to-date personnel records on the Supplier's Personnel engaged in the provision of the Services and, on request, provide reasonable information to the Authority or the Customer on the Supplier's Personnel. The Supplier shall ensure at all times that it has the right to provide these records in compliance with the applicable Data Protection Legislation.</p>
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Part 2. General Terms

1 Supply of Services

- 1.1 The Supplier shall provide the Services to the Customer with effect from the Commencement Date stated in the Order Form for each Call-Off Contract and for the duration of each Call-Off Contract in accordance with the provisions of this Call-Off Contract.

2 Service levels

- 2.1 The Service Level Arrangements (if any) shall apply with effect from the Commencement Date referred to at 1 above.

3 Compliance

- 3.1 The Supplier shall ensure that all Necessary Consents are in place to provide the Services and the Customer shall not (unless otherwise agreed) incur any additional costs associated with obtaining, maintaining or complying with the same.
- 3.2 Without prejudice to clause 2, the Supplier shall provide the Services, or procure that they are provided:
- (a) with all reasonable skill and care and in accordance with Best Industry Practice;
 - (b) in all respects in accordance with the Authority's requirements set out in the Specification which may from time to time be amended in accordance with this Call-Off Contract by the Customer ; and
 - (c) in accordance with all applicable laws.

4 Customer Premises

- 4.1 The Customer shall, subject to clauses 3 and 4, provide the Supplier (and its Sub-Contractors) with access to such parts of the Customer Premises as the Supplier reasonably requires for the purposes only of properly providing the Services.
- 4.2 In the event of the expiry or termination of the Call-Off Contract, the Customer shall on reasonable notice provide the Supplier with such access as the Supplier reasonably requires to the Customer Premises to promptly remove any of the Supplier's equipment.
- 4.3 The Supplier shall ensure that:
- (a) where using the Customer Premises they are kept properly secure and it will comply and cooperate with the Customer Authorised Representative's reasonable directions regarding the security of the same; and
 - (b) only those of the Supplier's Personnel that are duly authorised to enter upon the Customer Premises for the purposes of providing the Services, do so.
- 4.4 The Supplier shall notify the Customer immediately on becoming aware of any damage caused by the Supplier, its agents, employees or Sub-Contractors to any property of the Customer, to any of the Customer Premises or to any property of any other recipient of the Services in the course of providing the Services.

5 Health and Safety

- 5.1 The Supplier shall promptly notify the Customer of any health and safety hazards or incidents that may exist or arise in connection with the performance of the Call-Off Contract.

5.2 While on the Customer Premises, the Supplier shall comply with any health and safety measures implemented by the Customer in respect of staff and other persons working on the Customer Premises.

5.3 The Supplier shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Customer on request.

6 Charges and Payment

6.1 In consideration of the provision of the Services by the Supplier in accordance with the terms and conditions of this Call-Off Contract, the Customer shall pay the Charges to the Supplier.

6.2 The Charges shall be calculated as set out in the Schedule 8 or, where the Customer's requirements for a specific call-off are not included within in the Payment Schedule, in accordance with the approved quote and subsequent Purchase Order.

6.3 Unless otherwise stated in the Schedule 8 the Charges:

(a) shall be payable on delivery;

(b) shall remain fixed during the Term unless agreed by both parties; and

(c) are the entire price payable by the Customer to the Supplier in respect of the Services and includes, without limitation, any royalties, licence fees, supplies and all consumables used by the Supplier, travel costs, accommodation expenses and the cost of Supplier Personnel.

6.4 The Customer shall pay each invoice received by the Supplier within 30 days of its date. The Supplier shall accept payment electronically via BACS.

6.5 The Customer will consider and verify any invoices submitted by the Supplier for payment in a timely fashion and agrees that undue delay in doing so is not to be regarded as sufficient justification for failing to treat an invoice as valid and undisputed.

6.6 Where any party disputes any sum to be paid by it then a payment equal to the sum not in dispute shall be paid and the dispute as to the sum that remains unpaid shall be determined in accordance with clause 10. Provided that the sum has been disputed in good faith, interest due on any sums in dispute shall not accrue until the earlier of 30 days after resolution of the dispute between the parties.

6.7 Subject to clause 6.6, interest shall be payable on the late payment of any undisputed Charges properly invoiced under this Call-Off Contract in accordance with the Late Payment of Commercial Debts (Interest) Act 1998. The Supplier shall not suspend the supply of the Services if any payment is overdue unless it is entitled to terminate this Call-Off Contract under clause 19 for failure to pay undisputed charges.

6.8 The Charges are stated exclusive of VAT, which shall be added at the prevailing rate as applicable and paid by the Customer following delivery of a valid VAT invoice. The Supplier shall at all times comply with the requirements relating to VAT as more particularly detailed in this Call-Off Contract and the Specification. The Supplier shall maintain complete and accurate records of, and supporting documentation for, all amounts which may be chargeable to the Customer pursuant to this Call-Off Contract. Such records shall be retained for inspection by the Customer for six years from the end of each year to which the records relate.

6.9 The Customer 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 Call-Off Contract.

6.10 In this clause 6.10, "Sub-Contract" means a contract between two or more suppliers, at any stage of remoteness from the Customer in a sub-contracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Call-Off Contract. Where the Supplier enters into a Sub-Contract, the Supplier shall include in that Sub-Contract:

- (a) provisions having the same effect as clauses 6.4 and 6.5 above; 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 6.4 and 6.5 above.

6.11 For the purposes of this clause 6 (but no other) "Sub-Contractor" means a person under a contract, at any stage of remoteness from the Customer in a subcontracting chain, who has entered into a contract wholly or substantially for the purpose of performing (or contributing to the performance of) the whole of any part of this Call-Off Contract.

7 Due Diligence

7.1 The Supplier acknowledges and confirms that it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services to enable it to determine whether it is able to provide the Services in accordance with the terms of this Call-Off Contract and has entered into this Call-Off Contract in reliance on its own due diligence.

7.2 The Supplier as at the Commencement Date, warrants and represents that all information contained in the Supplier's Tender Response and any subsequent quotation remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Authority prior to execution of the Call-Off Contract; and shall promptly notify the Authority in writing if it becomes aware during the performance of this Call-Off Contract of any inaccuracies in any information provided to it by the Authority during such due diligence which materially and adversely affects its ability to perform the Services or meet the Service Level Arrangements.

8 Not used

9 Not used

10 Dispute Resolution

10.1 If a Dispute arises then except as expressly provided in this Call-Off Contract, the parties shall follow the procedure set out in clause Schedule 27 of Schedule 2:

11 Not used

12 Limitation of liability

12.1 Subject to clause 12.3, neither party shall be liable to the other party (as far as permitted by law) for indirect special or consequential loss or damage in connection with the Call-Off Contract which shall include, without limitation, any loss of or damage to profit, revenue, contracts, anticipated savings, goodwill or business opportunities whether direct or indirect.

12.2 Each party shall at all times take all reasonable steps to minimise and mitigate any loss or damage for which the relevant party is entitled to bring a claim against the other party pursuant to this Call-Off Contract.

12.3 Notwithstanding any other provision of this Call-Off Contract neither party limits or excludes its liability for:

- (a) fraud or fraudulent misrepresentation;
- (b) death or personal injury caused by its negligence;
- (c) breach of any obligation as to title implied by statute; or
- (d) any other act or omission, liability which may not be limited under any applicable law.

13 Not used

14 Not used

15 Not used

16 Not used

17 Not used

18 Intellectual property

18.1 Unless expressly stated otherwise in the Specification or in a separate prior written agreement signed by both parties to the contrary, all Intellectual Property Rights created by the Supplier, Supplier Personnel, a Sub-Contractor or any other 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 Customer on creation.

18.2 The Supplier shall indemnify the Customer against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis and all other reasonable professional costs and expenses), 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 Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the Customer's acts or omissions.

18.3 For the avoidance of doubt, the Contractor shall retain ownership of all pre-existing Intellectual Property Rights it uses in providing the Goods or Services.

19 Termination

19.1 The Customer may terminate this Call-Off Contract in accordance with Schedule 2 clause 15 Schedule 215 and Schedule 2 clause 16.

20 Force Majeure

Neither party shall be in breach of this Call-Off Contract nor liable for delay in performing, or failure to perform, any of its obligations under this Call-Off Contract if such delay or failure result from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for 30 calendar days, the party not affected may terminate this agreement by giving 30 calendar days' written notice to the affected party.

21 Waiver

No forbearance or delay by either party in enforcing its respective rights will prejudice or restrict the rights of that party and no waiver of any such rights or of any breach of any contractual terms will be deemed to be a waiver of any other right or of any later breach. In particular, but without limitation to the generality of the foregoing, any prior acceptance or approval communicated by the Customer to the Supplier in respect of the Services or any omission on the part of the Customer to communicate such prior acceptance or approval shall not relieve the Supplier of its obligations to deliver the Services in accordance with the provisions of this Call-Off Contract.

22 Accumulation of remedies

Subject to the specific limitations set out in this Call-Off Contract, no remedy conferred by any provision of this Call-Off Contract is intended to be exclusive of any other remedy except as expressly provided for in this Call-Off Contract and each and every remedy shall be cumulative and shall be in addition to every other remedy given there under or existing at law or in equity by statute or otherwise.

23 Severability

If any provision or part-provision of this Call-Off 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 Call-Off Contract.

24 Third party rights

No one other than a party to this Call-Off Contract, their successors and permitted assignees, shall have any right to enforce any of its terms.

25 Notices

25.1 Notices shall be in writing, and shall be sent to the other party marked for the attention of the person at the address set out for such party in this Call-Off Contract. Notices may be sent by first-class mail or e-mail.

25.2 Notices will be deemed to have been received:

- (a) if hand delivered, on the day delivered;
- (b) if sent by registered post, on the second business day after being sent;
- (c) if sent by email, at the time of transmission.

26 Changes to the Call-Off Contract

No Change to this Call-Off Contract shall be effective unless it is in writing and signed by the parties (or their Authorised Representatives). Such Change shall be made only where permitted by Regulation 72(1)(b) – (f) of the Public Contracts Regulations 2015.

27 Entire Agreement

This Call-Off Contract, the schedules and the documents annexed to it or otherwise referred to in it contain the whole agreement between the parties relating to the subject matter hereof and

supersede all prior agreements, arrangements and understandings between the parties relating to that subject matter.

28 Counterparts

This Call-Off Contract may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this Call-Off Contract, but all the counterparts shall together constitute the same Call-Off Contract. No counterpart shall be effective until each party has executed at least one counterpart.

29 Governing law

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

30 Jurisdiction

The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Call-Off Contract of its subject matter or formation (including non-contractual disputes).

Part 3. Definitions and Interpretation

1 Definitions and Interpretation

1.1 The definitions and rules of interpretation in this clause apply in this Call-Off Contract.

Authorised Representative: the persons respectively designated as such by the Customer and the Supplier, the first such persons being set out in the Key Provisions

Customer Premises: the premises which are to be made available for use by the Supplier for the provision of the Services on the terms set out in this Call-Off Contract as set out in the Specification.

Best Industry Practice: the standards which fall within the upper quartile in the relevant industry for the provision of comparable services which are substantially similar to the Services.

Bribery Act: the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.

Catastrophic Failure: any action by the Supplier, whether in relation to the Services and this Call-Off Contract or otherwise, which in the reasonable opinion of the Customer's Representative has or may cause significant harm to the reputation of the Customer.

Change: any change to this Call-Off Contract including to any of the Services.

Charges: means the charges referred to in clause 6 of the General Terms and more particularly set out in the Payment Schedule.

Commencement Date: the date on which this Call-Off Contract commences as set out on the Front Sheet, or, if the Front Sheet does not expressly state the Commencement Date, the date on which the Call-Off Contract is signed.

Confidential Information: means all confidential information (however recorded or preserved) disclosed by a party or its employees, officers, representatives or advisers (together its Representatives) to the other party and that party's Representatives whether before or after the date of this Call-Off Contract in connection with the Call-Off Contract, concerning:

- (a) the existence and terms of this Call-Off Contract;
- (b) any information that would be regarded as confidential by a reasonable business person relating to:
 - (i) the business, affairs, customers, clients, suppliers, or plans, intentions, or market opportunities of the disclosing party (or of any member of the group of companies to which the disclosing party belongs); and
 - (ii) the operations, processes, product information, know-how, designs, trade secrets or software of the disclosing party (or of any member of the group of companies to which the disclosing party belongs); and
- (c) any information developed by the parties in the course of carrying out this Call-Off Contract.

Call-Off Contract: means this agreement and no other.

Data: shall have the meaning as set out in the Specification.

Data Processor: shall have the same meaning as set out in the Data Protection Act.

Data Protection Act: the Data Protection Act 1998.

Data Protection Legislation: the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000, the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

Dispute: a dispute arising out of or in connection with this Call-Off Contract or the performance, validity or enforceability of it.

EIRs: 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

FOIA: the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.

Front Sheet: the front sheet of the Call-Off Contract.

General Terms: the provisions set out in Part 2.

Information: has the meaning given under section 84 of FOIA.

Intellectual Property Rights: any and all intellectual property rights of any nature anywhere in the world whether registered, or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other intellectual property rights which subsist in computer software, computer programs, websites, documents, information, techniques, business methods, drawings, logos, instruction manuals, lists and procedures and particulars of customers, marketing methods and procedures and advertising literature, including the "look and feel" of any websites.

Insolvency Event: means, in relation to the Supplier, the occurrence of any of the following events: insolvency, inability to pay its debts as they fall due, admission of its inability to pay its debts, general assignment, arrangement or composition with or for the benefit of its creditors, commencement of insolvency proceedings (including rehabilitation or restructuring, whether instituted by itself or others against it) which, in the case of any proceeding brought by another party against it, has not been dismissed within 30 days, passing of a resolution for its winding-up, official management, liquidation or dissolution (other than pursuant to a consolidation, amalgamation or merger), appointment of an administrator, provisional liquidator, receiver or similar official over its assets or any similar.

Key Provisions: the terms set out in Part 1.

Necessary Consents: means all consents required from time to time by UK law and all reasonable local consents required by the Authority.

Payment Schedule: the document set out at Schedule 8

Personal Data: shall have the same meaning as set out in the Data Protection Act.

Prohibited Act: the following constitute Prohibited Acts:

- (a) to directly or indirectly offer, promise or give any person working for or engaged by the Customer a financial or other advantage to:
 - (i) induce that person to perform improperly a relevant function or activity; or
 - (ii) reward that person for improper performance of a relevant function or activity;
- (b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Call-Off Contract;
- (c) committing any offence:
 - (i) under the Bribery Act;
 - (ii) under legislation creating offences concerning fraudulent acts;
 - (iii) at common law concerning fraudulent acts relating to this Call-Off Contract or any other contract with the Customer; or
 - (iv) defrauding, attempting to defraud or conspiring to defraud the Customer.

Public Contracts Regulations 2015: the Public Contracts Regulations 2015 as enacted or the same or equivalent provisions in any re-enactment/amendment.

Regulated Activity: in relation to children as defined in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 in relation to vulnerable adults as defined in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

Regulated Activity Provider: as defined in section 6 of the Safeguarding Vulnerable Groups Act 2006.

Request for Information: a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the EIRs.

Service Failure Default: a failure by the Supplier to provide the Services in accordance with the Service Level Arrangements that the Customer deems shall result in termination of the Call-Off Contract as set out in the Specification.

Service Level Arrangements: the service level arrangements set out in the Specification.

Supplier Party: the Supplier's agents and contractors, including each Sub-Contractor.

Supplier's Personnel: all employees, staff, other workers, agents and consultants of the Supplier and of any Sub-Contractors who are engaged in the provision of the Services from time to time.

Supplier's Tender Response: the tender response document submitted by the Supplier and other associated documentation set out in Schedule 7

Services: the services to be delivered by or on behalf of the Supplier under this Call-Off Contract, as more particularly described in the Specification which may from time to time be altered by the Authority.

Specification: the specification detailed in Schedule 6.

Sub-Contract: (except in clause 6.10 of Part 2 to Schedule 12) any contract between the Supplier and a third party pursuant to which the Supplier agrees to source the provision of any of the Services from that third party.

Sub-Contractor: the contractors or suppliers that enter into a Sub-Contract with the Supplier.

Term: the period commencing on the Commencement Date and ending on the Termination Date.

Termination Date: the date of expiry or termination of this Contract as set out in the Front Sheet, or, if the Front Sheet does not expressly state the Commencement Date, the date on which the Call-Off Contract is signed.

VAT: value added tax chargeable under the Value Added Tax Act 1994 and any similar additional tax or any other similar turnover, sales or purchase tax or duty levied in any other jurisdiction.

Working Day: Monday to Friday, excluding any public holidays in England and Wales.

- 1.2 Clause, schedule, part and paragraph headings shall not affect the interpretation of this Call-Off Contract.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's legal and personal representatives, successors and permitted assigns.
- 1.4 The schedules form part of this Call-Off Contract and shall have effect as if set out in full in the body of this Call-Off Contract and any reference to this Call-Off Contract includes the schedules.
- 1.5 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.6 Words in the singular shall include the plural and vice versa.
- 1.7 A reference to one gender shall include a reference to the other genders.
- 1.8 A reference to statute, legislation, regulations or a statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.9 A reference to writing or written includes facsimile transmission and e-mail.
- 1.10 Any obligation in this Call-Off Contract on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 1.11 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this Call-Off Contract) at any time.

Part 4. **Data Processing Agreement**

Guidance: This Part will only apply to those sub-lots where the Supplier is processing Council data.

1 **Definitions and Interpretation**

1.1 In this Schedule the definitions and rules of interpretation below will apply, unless the context otherwise requires or permits:-

The Authority: means Torbay Council

The Supplier: means the organisation named on the front sheet of this Framework Agreement;

Agreement: means this Data Processing Agreement;

Completion: means the time immediately following the completion of the **purpose**

Data: means the information provided to the Supplier for the stated **purpose**

Data Controller: has the meaning set out in the General Data Protection Regulation.

Data Processor: has the meaning set out in the General Data Protection Regulation.

Data Protection Legislation: means all current UK legislation that relates to Data Protection.

Personal Data: has the meaning set out in the General Data Protection Regulation.

Personal Data Breach: has the meaning set out in the General Data Protection Regulation.

Processing and process: have the meaning set out in the General Data Protection Regulation.

Intellectual Property Rights: means any and all intellectual property rights of any nature anywhere in the world whether registered, registerable or otherwise, including patents, utility models, trademarks, registered designs and domain names, applications for any of the foregoing, trade or business names, goodwill, copyright and rights in the nature of copyright, design rights, rights in databases, moral rights, know-how and any other similar rights.

Parties: means the parties to this Agreement and **Party** means either of them. Words in the singular include the plural and in the plural include the singular. Clause headings will not affect the interpretation of this agreement.

1.2 References to clauses are, unless otherwise provided, references to the clauses of this agreement.

1.3 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.4 In the event that there is any conflict between these terms and conditions and the Schedules they shall take the following order of precedence (from most to least important):

1.5 For the purposes of this Schedule, the Authority is the Data Controller and the Supplier is the Data Processor of any Personal Data.

Purpose: means the printing and/or distribution of a specific requirement on behalf of Torbay Council.

2 Processing Activity to be Undertaken

- 2.1 The processing activity will take place in respect printing and distribution of documents on behalf of Torbay Council.
- 2.2 The processing activity shall only be undertaken for the duration of the Call-Off Contract unless the processing requirement is terminated earlier through formal variation.
- 2.3 The processing activity will be carried out for the specific purpose of printing and distribution of documents on behalf of Torbay Council.
- 2.4 The processing activity will only apply to these types of personal data:
 - 2.4.1 Names and contact details;
 - 2.4.2 Revenue and benefits information;
 - 2.4.3 Electoral registration information;
 - 2.4.4 Personal financial information;
 - 2.4.5 Business financial information; and
 - 2.4.6 Special category data.
- 2.5 The processing activity will only apply to these categories of data subjects:
 - 2.5.1 Customers of the Council;
 - 2.5.2 Staff; and
 - 2.5.3 Suppliers.
- 2.6 The means of processing will be:
 - 2.6.1 [insert details]
- 2.7 If the Supplier does not comply with the requirements of clauses 2.1 to 2.6 and instead determines the purpose and means of processing the Supplier will be considered to be a Data Controller in respect of that processing.

3 Obligations of the Supplier

- 3.1 The Supplier and its employees are bound by a duty of confidentiality and will to adhere to the conditions within the agreement between the Authority and the Supplier and employees personal responsibilities to comply with the requirements of the Data Protection legislation.
- 3.2 The Supplier will use all reasonable skill and care in providing the Services.
- 3.3 The Supplier will process the Data only to the extent, and in such a manner, as is necessary for this Agreement and will not process the Data for any other purpose.
- 3.4 The Supplier will:
 - 3.4.1 process the Data in accordance with Data Protection legislation, in so far as it applies;
 - 3.4.2 take appropriate technical and organisational measures against unauthorised or unlawful processing of the Data and against accidental loss of, destruction of, or damage to Data; and

- 3.4.3 act only on instructions from the Authority and in accordance with this agreement;
 - 3.4.4 take appropriate technical and organisational measures to assist the Authority in responding to requests for exercising data subject's rights under Data Protection legislation, including but not limited to the right of access and right to be forgotten;
 - 3.4.5 comply with the requirement to carry out a data protection impact assessment on any new technologies used in connection with the processing of data under this contract and shall consult the Authority's Data Protection Officer on any impact assessment;
 - 3.4.6 on termination of this Data Processing Agreement the Supplier will delete or return all personal data to the Authority;
 - 3.4.7 the Supplier will notify the Authority immediately in the event that any instruction from the Authority or its authorised representatives in relation to monitoring compliance with data protection legislation, in their opinion, infringes Article 28 of the General Data Protection Regulation
- 3.5 The Supplier will keep a record of any processing of Data it carries out on behalf of the Authority.
- 3.6 In the event that the Supplier receives any complaint, notice or communication from a third party in connection with the Services, it will immediately notify the Authority in writing to The Data Protection Officer, Torbay Council, Town Hall, Castle Circus, Torquay TQ1 3DR and provide the Authority with full co-operation and assistance dealing with such complaint, notice or communication.
- 3.7 The Supplier will promptly comply with any reasonable request received from the Authority in relation to the Data.
- 3.8 The Supplier will keep all information (written or oral) confidential, in so far as permitted by law relating to any Data.
- 3.9 The Supplier will not disclose or transfer the Data in whole or in part to any other person without the Authority's written consent (not to be unreasonably withheld or delayed), except to its employees who have a need to know and involved in the performance of the Services.
- 3.10 The Supplier will promptly, within 24 hours of becoming aware, inform the Authority if they become aware that any Data is lost or if a personal data breach has occurred. The Supplier will recover such Data at its own expense. If equipment containing the data has been lost or stolen, the Supplier will notify the Authority's Data Protection Officer immediately at infocompliance@torbay.gov.uk and the supplier shall assist the Authority with any investigation undertaken.
- 3.11 The Supplier will not transfer any Personal Data outside the European Economic Area without the prior written consent of the Authority.
- 3.12 The Supplier will not be restricted by this Agreement in its use of any Data which is in the public domain or in the possession of the Supplier prior to the date of this Agreement.

4 The Supplier's Employees

- 4.1 The Supplier ensure that access to the Data is limited to:

- 4.1.1 those employees who need access to the Data for the purpose of this Agreement; and in the case of any access by any employee, such part or parts of the Data as is strictly necessary for performance of that employee's duties under this Agreement.
- 4.2 The Supplier will ensure that any of their employees, agents, subcontractors or professional advisors who have access to the Data under this Agreement:
 - 4.2.1 are informed of the confidential nature of the Data;
 - 4.2.2 have undertaken training in the laws relating to handling Personal Data;
 - 4.2.3 are aware of the Supplier obligations under this Agreement.
- 4.3 The Supplier will use reasonable endeavours to ensure the reliability of any of their employees who have access to the Data.

5 The Obligations and Rights of the Authority

- 5.1 The Authority is entitled, on giving at least five working days' notice to the Supplier, to inspect or appoint representatives to inspect all facilities, equipment, documents and electronic data relating to the processing of the Data.
- 5.2 The requirement under clause 5.1 to give notice will not apply if the Authority believes that the Supplier is in breach of any of its obligations under this Agreement.
- 5.3 The Authority will notify the data subject of any personal data breach, resulting from any actions of the Supplier.

6 Warranties

- 6.1 Each party warrants to the other that it is duly authorised to enter into this Agreement.
- 6.2 The Supplier warrants that it will process the Personal Data in compliance with all applicable laws, enactments, regulations, orders, standards and other similar instruments.
- 6.3 The Supplier warrants that it will not authorise any third party or sub-contractor to process the Data.

7 Intellectual Property Rights

- 7.1 The Supplier agrees and acknowledges that any Intellectual Property Rights in the Data belongs to the Authority and that the Supplier does not acquire any rights, title or interest in such Data, save as granted under this Agreement.
- 7.2 The Authority hereby grants the Supplier a royalty free licence to process the Data under this Agreement. For the avoidance of doubt, this licence shall terminate automatically on termination of this Agreement.

8 Indemnity

- 8.1 The Supplier agrees to indemnify and hold the Authority harmless against all costs, claims, losses, damages or expenses (including legal expenses) incurred by The Authority as a result of the Supplier's failure to comply with its obligations under this Agreement and Data Protection legislation.

9 Completion of the Term

- 9.1 Immediately after Completion, the Supplier will delete all Data and any copies of the Data in its possession (unless otherwise stipulated).