

**CONTRACT
BETWEEN
DORSET COUNCIL**

AND

.....

**FOR THE PROVISION OF
INFRASTRUCTURE SUPPORT TO THE VOLUNTARY
AND COMMUNITY SECTOR (VCS) –
COMMUNICATIONS, NETWORKING AND SECTOR
REPRESENTATION**

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PARTIES TO THIS CONTRACT

This Contract is made on _____ between:

- **Dorset Council** of South Walks House, South Walks Road, Dorchester, DT1 1UZ ('the Purchaser'); and
- **XXXXXXXXXXXXXX** (company registration number: **XXXXXX**) whose registered office is at **XXXXXXXXXXXXXXXXXX** ('the Provider')

DEFINITIONS AND INTERPRETATION

For the purposes of this Contract the following definitions shall apply: -

| | | |
|------------------------------------|--|---|
| Authorised Officer | | the officer of the Purchaser or their duly appointed nominee, who shall monitor the performance of the Contract to ensure that the Services are meeting service delivery objectives in line with the Purchaser's priorities. |
| Clauses | | the Clauses of this Contract. |
| Commercially Sensitive Information | | any information so specified and provided by the Provider to the Purchaser in confidence. |
| Confidential Information | | any information, data and material of any nature which any party may receive or obtain in connection with the operation of this Contract including information which by its nature is clearly confidential and including sensitive personal information and Commercially Sensitive Information. |
| Contract | | this Contract consisting of these terms and conditions, the appendices, the invitation to tender and the Provider's tender submission. |
| Contract Manager | | the competent person nominated by the Provider who shall manage the Contract and make decisions about the provision of the Services. |
| Contract Period | | the period specified in Clause 2.1 or ending on earlier termination in accordance with the terms of this Contract. |
| Contract Price | | the price payable (exclusive of any applicable VAT) to the Provider by the Purchaser as set out in the Pricing Schedule at Appendix 2 for the full and proper performance of its obligations under this Contract. |
| Law | | any law, statutory provisions or subordinate legislation and, to the extent they are legally |

| | | |
|-----------------------|--|---|
| | | binding, any other enactment, order, regulation, regulatory policy, guidance, industry code, applicable judgement or a relevant court of law or a decision of a tribunal or regulatory body which applies to the provision of the Services. |
| Personnel | | all persons employed by the Provider together with the Provider's volunteers, servants, agents, contractors and sub-contractors used in the performance of the Services under this Contract. |
| Premises | | any location where the Services are performed. |
| Provider | | the organisation appointed by the Purchaser to provide the Services under this Contract and including the Provider's Personnel, agents, successors, permitted assigns and volunteers used in the performance of the Services. |
| Service Specification | | the document at Appendix 1 which sets out the level, scope and standards of the Services to be provided under this Contract. |
| Services | | the Services that the Provider is obliged to provide as specified in the Service Specification. |
| TUPE | | the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended). |
| Working Day | | Monday to Friday inclusive but not including any declared Public Holiday. |

In this Contract:

- Headings do not affect its interpretation or construction;
- Words importing the singular include the plural and vice versa;
- References to numbered Clauses and appendices are references to the relevant Clause in or appendix to this Contract;
- Words importing any gender include every gender;
- Any reference to an enactment includes a reference to that enactment as amended or replaced from time to time and to any subordinate legislation or byelaw made under that enactment.
- In the event of any conflict between the Clauses and appendices, the appendices shall prevail.
- The provisions of the appendices are incorporated into the Contract.
- Any period of time referred to in this Contract and expressed in days or weeks shall

refer to calendar days or weeks unless stated otherwise.

1. SCOPE OF CONTRACT

- 1.1 This Contract governs the relationship between the Purchaser and the Provider in respect of the provision of the Services as set out in the Service Specification.
- 1.2 The Provider shall perform the Services in accordance with the requirements of this Contract and the Service Specification.
- 1.3 This Contract contains the whole agreement between the parties in respect of the Services and supersedes and replaces any prior written or oral agreements, representations or understandings between them. The parties confirm that they have not entered into this Contract on the basis of any representation that is not expressly incorporated into this Contract.

2. CONTRACT PERIOD

- 2.1 This Contract shall commence on 1 February 2022 and shall continue until 31 August 2023 unless terminated earlier in accordance with the provisions of this Contract.

3. PROVIDER STATUS

- 3.1 In carrying out the Services, the Provider shall be acting as principal and not as the agent of the Purchaser.
- 3.2 This Contract shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the parties other than the contractual relationship expressly provided for in this Contract.
- 3.3 The Provider shall ensure that its Personnel do not say or do anything that might lead another person to believe that the Provider is acting as an agent of the Purchaser.

4. PROVIDER'S OBLIGATIONS

- 4.1 The Provider shall provide the Services during the Contract Period fully in accordance with the Service Specification and the terms of this Contract, to the reasonable satisfaction of the Authorised Officer.
- 4.2 The Provider shall perform the Services with all reasonable care and skill to the highest standard, to avoid injury to persons or damage to property and conform with all legislative requirements and all relevant standards and specifications applicable to the performance of the Services, whether specified in this Contract or not. Whether these requirements are met shall be determined by the Authorised Officer.
- 4.3 The Provider shall ensure that suitable up to date contact details are maintained for the Purchaser.
- 4.4 The Provider shall assist the Purchaser in reviewing the planning, provision and operation of the Services, comply with the reasonable directions of the Purchaser and

use all reasonable endeavours to carry out the Services in accordance with any variations to the Service Specification.

- 4.5 The Provider shall attend Contract review meetings as reasonably required.
- 4.6 The Provider shall perform the Services in such a way as to promote the safe, efficient and professional delivery of the Services, and so as not to cause damage to the public perception of the Services or the reputation of the Purchaser.
- 4.7 The Provider shall properly manage and monitor the performance of the Services at all times, and immediately notify the Purchaser of any actual or potential problems that affect or might affect the delivery of the Services.
- 4.8 The Provider shall provide all Personnel, Premises, resources and other things as may be required for the provision of the Services.

5. PROVIDER'S PERSONNEL

- 5.1 The Provider shall provide the Services using suitably qualified Personnel who are at all times entitled to work in the UK.
- 5.2 All Personnel shall be made fully aware of the Provider's obligations under this Contract as it affects them in the performance of the Services.
- 5.3 The Provider shall at all times employ and assign to the Services Personnel who are entitled to work in the UK, competent to provide the Services and of sufficient number to ensure that the Services are provided at all times in accordance with this Contract.
- 5.4 The Provider shall give and shall ensure that its Personnel give all reasonable assistance to the Purchaser in the investigation of complaints, disciplinary matters, claims for damages and similar matters.
- 5.5 If applicable (and the Provider shall satisfy itself in this regard) the Provider shall comply with its obligations and requirements under the Transfer of Undertakings (Protection of Employment) Regulations 2006 in relation to the provision of the Services.

6. SERVICE CONTINUITY

- 6.1 The Provider shall have contingency arrangements in place, as approved by the Purchaser, to ensure continuity of the Services at all times at no extra cost to the Purchaser. These shall include, but not be limited to, arrangements to deal with staff absences.
- 6.2 The Provider shall demonstrate, on request by the Purchaser, for the duration of the Contract, that it has adequate business continuity plans and associated contingency arrangements in place to ensure minimum disruption in the provision of any part of the Services in the event of a major incident affecting its ability to provide the Services, including an insolvency event affecting the Provider or any key-subcontractor, such plans to be appropriate to the scale of the Provider's commitments under this Contract.
- 6.3 The Purchaser reserves the right to request detailed evidence of contingency plans such as sight of the Provider's business continuity plan and evidence of the testing of

the plan, and to require review and/or amendment of the plan and any other contingency arrangements to meet the Purchaser's requirements, and in any event the Provider shall review the plans as a minimum every six months.

7. VARIATIONS AND WAIVERS

- 7.1 The Purchaser reserves the right to require changes to the Services (a Service Variation) for any reason, including to meet the Purchaser's policy prevailing at the time but so as not to constitute a material variation to the Contract.
- 7.2 The Purchaser shall give reasonable written notice of any such Service Variation to the Provider. Reasonable notice shall be deemed to have been given if it is either:-
 - 7.2.1 three months' notice for changes to the Service Specification which the Purchaser considers will result in more or less Personnel being required or significantly more costs being incurred by the Provider; or
 - 7.2.2 one month's notice in any other case.
- 7.3 In the event of a Service Variation, the Contract Price may also be varied. Such variation shall be calculated by the Purchaser and agreed in writing with the Provider and shall be an amount which properly and fairly reflects the nature and extent of the Service Variation. Otherwise, the Contract Price prevailing at the time of the Service Variation shall be used as the basis for valuing such Service Variation, in so far as may be reasonable, and otherwise a fair valuation shall be made.
- 7.4 The Provider shall promptly provide such information as may be reasonably required to enable such a variation in the Contract Price to be calculated.
- 7.5 In the event of dispute, the matter shall be determined in accordance with the dispute resolution procedure at Clause 30.
- 7.6 The Purchaser and Provider may vary the Contract by mutual written consent.
- 7.7 Failure by a party to insist on strict performance of the Contract or to exercise any right or remedy on breach of any provision of the Contract shall not constitute a waiver of the Contract Clauses or a waiver of any subsequent breach or default in the performance of the Contract. The rights and remedies provided in this Contract are cumulative and not exclusive of any rights and remedies provided by Law.

8. FINANCIAL ARRANGEMENTS

- 8.1 In consideration of the Provider's performance of its obligations under this Contract, the Purchaser shall pay the Provider the Contract Price as detailed in the Pricing Schedule at Appendix 2.
- 8.2 Payment shall be made on a three-monthly basis following each quarter contract review.
- 8.3 The Contract Price shall be inclusive of all costs, expenses and overheads but exclusive of VAT which shall be charged at the prevailing rate.
- 8.4 Payment shall be made within 30 days of receipt of a correct invoice for the Services performed to the satisfaction of the Purchaser.

- 8.5 If the Provider withdraws, makes unavailable or fails to provide the Services, either temporarily or permanently, the Provider shall reimburse the Purchaser the relevant proportion of the Contract Price in respect of the period of unavailability, unless otherwise agreed in advance with the Purchaser.
- 8.6 If the Purchaser intends to withhold all or any part of a payment it shall give notice to the Provider to that effect, which notice shall specify the amount proposed to be withheld and the ground for doing so.
- 8.7 Where the Provider enters into a sub-contract for the Services, the Provider shall include in that sub-contract provision for any sum due under a correct invoice to be paid within thirty days of receipt of that invoice.

9. INFORMATION

- 9.1 The Provider must maintain accurate documented information as required under this Contract and the Service Specification (Appendix 1).
- 9.2 In addition, the Provider shall submit to the Authorised Officer the following information:
- 9.2.1 an annual written report, where appropriate, detailing evidence that the Services are meeting the objectives of the Contract by no later than April of each financial year, unless stated otherwise in the Service Specification;
 - 9.2.2 a copy of the Provider's audited (or inspected) accounts as soon as they are available for each year of the Contract;
 - 9.2.3 an up-to-date copy of the governing document of the Provider to be submitted at the beginning of the Contract Period, if not provided to the Purchaser previously;
 - 9.2.4 a copy of the Provider's current insurance policies to be submitted at the beginning of the Contract Period and thereafter on the anniversary of the renewal of the policies, in accordance with the requirements of Clause 16.
- 9.3 The Purchaser, or his representative, may inspect books of accounts, financial documents and other records held by the Provider and may visit establishments at any time and without notice to view the performance of the Services and obtain such explanations as may be considered necessary in so far as they concern matters pertaining to the Contract. The Purchaser may also request copies of the above documents be supplied confidentially by email or posted within a reasonable timescale. The Provider shall supply copies of all such requested information.
- 9.4 The provisions of this Clause shall in respect of any Services performed under this Contract survive its expiry or its termination for any reason.

10. AUDIT

- 10.1 The Provider shall keep and maintain until six years after the Contract has ended, or for as long a period as may be agreed between the parties, full and accurate records of the Contract including the Services provided, all expenditure reimbursed by the Purchaser and all payments made by the Purchaser.

- 10.2 The Provider shall on request afford the Purchaser or the Purchaser's representatives such access to those records as may be required by the Purchaser in connection with the Contract at no cost to the Purchaser.

11. CONFIDENTIALITY

- 11.1 Each party, its Personnel and any other person associated with either party shall keep confidential:-

11.1.1 the terms of this Contract; and

11.1.2 any and all Confidential Information that it may acquire in relation to the Contract.

- 11.2 No party shall use or disclose the other party's Confidential Information, without prior written consent, except to persons and for the purpose of performing this Contract, or where disclosure is expressly permitted under this Contract.

- 11.3 The Provider shall only use the Purchaser's Confidential Information for the purposes of this Contract.

- 11.4 The Provider shall take reasonable steps to ensure the Purchaser's Confidential Information is only given to its Personnel, professional advisors or consultants as strictly necessary for the performance of this Contract. The Provider shall ensure its Personnel, professional advisors or consultants are aware of the Provider's confidentiality obligations under this Contract.

- 11.5 The obligations on a party set out in Clauses 11.1 to 11.4 shall not apply to any Confidential Information which:

11.5.1 a party can demonstrate is or becomes public knowledge otherwise than by breach of this Contract;

11.5.2 is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party;

11.5.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

11.5.4 is independently developed without access to the Confidential Information;

11.5.5 is required to be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000.

- 11.6 Nothing in this Clause shall prevent the Purchaser from:

11.6.1 disclosing any Confidential Information for the purpose of:

11.6.1.1. the examination and certification of the Purchaser's accounts; or

11.6.1.2 any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the

Purchaser has used its resources; or

11.6.2 disclosing any Confidential Information obtained from the Provider:

11.6.2.1 to any government department or any other contracting authority. All government departments or contracting authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other contracting authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any contracting authority; or

11.6.2.2 to any person engaged in providing any services to the Purchaser for any purpose relating to or ancillary to this Contract;

provided that in disclosing information under sub-paragraph 11.6.2 the Purchaser discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where appropriate.

11.7 In the event that the Provider fails to comply with this Clause, the Purchaser reserves the right to terminate the Contract by notice in writing with immediate effect.

11.8 This Clause shall survive termination of this Contract indefinitely.

12. DATA PROTECTION

Definitions

For the purposes of this Clause, the following terms shall have the following meanings:

Data Controllers in Common: where both parties are Controllers and process Personal Data under the Contract independently of the other;

Data Protection Legislation: the GDPR, the LED and any applicable implementing Law as amended from time to time, the DPA 2018 and any other relevant legislation as amended from time to time to the extent that it relates to the processing of personal data and privacy;

Data Protection Impact Assessment: an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;

Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer have the meaning given in the GDPR;

Data Loss Event: any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;

Data Subject Request: a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;

DPA 2018: Data Protection Act 2018;

GDPR: the General Data Protection Regulation (Regulation (EU) 2016/679) or its UK equivalent;

Joint Controllers or Joint Control where two or more Controllers jointly determine the purposes and means of processing;

LED Law Enforcement Directive (Directive (EU) 2016/680) or its UK equivalent;

Processor Personnel means all directors, officers, employees, agents, consultants and contractors of the Processors and/or of any Sub-Processor engaged in the performance of its obligations under this Contract;

Protective Measures: appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the such measures adopted by it;

Sub-processor: any third party appointed to process Personal Data on behalf of that Processor related to this Contract.

- 12.1 The parties acknowledge that they are Joint Controllers or Data Controllers in Common for the purposes of the Data Protection Legislation in respect of the Personal Data under the Contract as described in Appendix 3 and as such are responsible for complying with and discharging their own duties under the Data Protection Legislation and these Clauses.
- 12.2 Each party shall comply with the obligations imposed on a Controller under the Data Protection Legislation and any material breach of the Data Protection Legislation by one party shall, if not remedied within 30 days of written notice from the other party, give grounds to the other party to terminate this Contract with immediate effect.
- 12.3 Each party shall be responsible for meeting their obligations under the GDPR in providing information to any Data Subject in respect of whose Personal Data that party is Controller.
- 12.4 Each party shall be responsible for responding to a Data Subject Request in relation to Personal Data for which it is Controller in compliance with the GDPR.
- 12.5 Each party shall provide reasonable assistance to the other party in complying with all applicable requirements of the Data Protection Legislation. In particular, each party shall:
 - (a) promptly inform the other party in the event of receipt of a Data Subject Request in relation to the Personal Data for which it is the Controller;
 - (b) provide the other party with reasonable assistance in complying with any such Data Subject Request;
 - (c) not disclose or release any Personal Data in response to a Data Subject Request without first consulting the other party;

- (d) promptly notify the other party if it receives any other request, complaint or receives any other request, complaint or communication relating to that party's obligations under the Data Protection Legislation;
 - (e) promptly notify the other party if it receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;
 - (f) promptly notify the other party if it receives a request from any third party for disclosure of Personal Data under the Contract where compliance with such request is required or purported to be required by Law; and
 - (g) promptly notify the other party if it becomes aware of a Data Loss Event.
- 12.6 Each party shall comply with its obligation to notify a Personal Data Breach to the Information Commissioner's Office and, where applicable, Data Subjects, under the GDPR in respect of the Personal Data for which it is Controller, and each party shall inform the other party of any Personal Data Breach irrespective of whether there is a requirement to notify the Information Commissioner's Office or Data Subject.
- 12.7 The parties agree to provide reasonable assistance to each other to facilitate the handling of any Personal Data Breach in an expeditious and compliant manner.
- 12.8 The parties shall maintain complete and accurate records and information in respect of the Personal Data for which it is Controller and which it is processing in order to demonstrate compliance with the GDPR and to allow for audit of its Data Processing activity by the other party's designated auditor.
- 12.9 Each party shall be responsible for carrying out a Data Protection Impact Assessment in relation to the Personal Data for which it is Controller prior to commencing processing of such Personal Data and shall ensure compliance with its obligations under the Data Protection Legislation with respect to Data Protection Impact Assessments.
- 12.10 Each party shall ensure it has in place Protective Measures which are appropriate to protect against a Data Loss Event affecting the Personal Data it is processing, having taken account of the nature of the data to be protected, the harm that might result from a Data Loss Event; the state of technological development and the cost of implementing any measures.
- 12.11 Each party that is processing Personal Data under the Contract shall ensure that its Personnel do not process such Personal Data except in accordance with this Contract, take all reasonable steps to ensure the reliability and integrity of any Personnel who have access to the Personal Data and ensure that they:
- (a) are aware of and comply with the duties under this Clause;
 - (b) are subject to appropriate confidentiality undertakings;
 - (c) are informed of the confidential nature of the Personal Data and

do not publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Controller or as otherwise permitted by this Contract; and

- (d) have undergone adequate training in the use, care, protection and handling of Personal Data.

12.12 No party processing Personal Data under the Contract shall transfer such Personal Data outside of the EU and unless the following conditions are fulfilled:

- (a) appropriate safeguards are provided in relation to the transfer (in accordance with the GDPR or LED);
- (b) the Data Subject has enforceable rights and effective legal remedies;
- (c) the Controller processing the Personal Data complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred.

12.13 Where the Controller is processing Personal Data under the Contract, before allowing any Sub-processor to process such Personal Data, it shall:

- (a) notify the other party in writing of the intended Sub-processor and processing;
- (b) obtain the prior written consent of the other party;
- (c) enter into a written agreement with the Sub-processor which gives effect to the terms set out in this Clause such that they apply to the Sub-processor;
- (d) provide the other party with such information regarding the Sub-processor as the other party may reasonably require; and
- (e) remain fully liable for all acts or omissions of any of its Sub-processors.

12.14 Each party shall provide the other with contact details of at least one employee as a point of contact and responsible manager for all issues arising out of the Data Protection Legislation, including the procedures to be followed in the event of a Personal Data Breach, and the regular review of the parties' compliance with the Data Protection Legislation.

12.15 To the extent that the parties agree that one party will process Personal Data on behalf of the other party in connection with this Contract, the party processing the Personal Data shall, in relation to such processing;

- (a) carry out that processing only on the written instructions of the other party;
- (b) at the written direction of the other party, delete or return Personal Data processed solely on behalf of the other party

(and copies of such Personal Data) on termination of the Contract unless required by Law to store the Personal Data;

- (c) not transfer such Personal Data outside the European Economic Area for the purposes of the processing without the prior written consent of the other party.

13. FREEDOM OF INFORMATION

- 13.1 The Provider acknowledges that the Purchaser is subject to the requirements of the Freedom of Information Act 2000 (the FOIA) and shall assist and co-operate with the Purchaser (at the Provider's expense) to enable the Purchaser to comply with its information disclosure requirements.
- 13.2 The Provider shall:-
 - 13.2.1 transfer all requests for information to the Purchaser (where it is reasonably apparent that such are intended to be requests for information for the Purchaser) as soon as practicable after receipt and in any event within two Working Days of receiving a request for information;
 - 13.2.2 provide the Purchaser with a copy of any information in its possession or power in the form that the Purchaser requires within five Working Days (or such other period as the Purchaser may specify) of the Purchaser requesting that information; and
 - 13.2.3 provide all necessary assistance as reasonably requested by the Purchaser to enable the Purchaser to respond to a request for information within the time for compliance set out in Section 10 of the FOIA.
- 13.3 The Purchaser shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other information:-
 - 13.3.1 is exempt from disclosure in accordance with the provisions of the Code of Practice on the Discharge of Public Authorities' Functions under Part 1 FOIA; or
 - 13.3.2 is to be disclosed in response to a request for information.
- 13.4 In no event shall the Provider respond directly to a request for information unless expressly authorised to do so by the Purchaser.
- 13.5 The Provider acknowledges that the Purchaser may, acting in accordance with the Code of Practice on the Discharge of Public Authorities' Functions under Part 1 of the FOIA, be obliged to disclose Information:
 - 13.5.1 without consulting with the Provider; or
 - 13.5.2 following consultation with the Provider and having taken its views into account.
- 13.6 The Provider shall ensure that all information produced in the course of this Contract or relating to this Contract is retained for disclosure and shall permit the Purchaser to inspect such records as requested from time to time.

- 13.7 The Provider acknowledges that any lists or schedules provided by it outlining Commercially Sensitive Information are of indicative value only and that the Purchaser may nevertheless be obliged to disclose Confidential Information in accordance with Clause 13.4.

14. WARRANTIES

- 14.1 The Provider warrants and represents to the Purchaser that:-

- 14.1.1 it has the full capacity and authority to enter into and perform this Contract and that the Contract is executed by a duly authorised representative of the Provider;
- 14.1.2 it shall perform the Services using reasonable care and skill and suitably qualified Personnel, volunteers and agents, and to a standard which conforms to generally accepted industry standards and practice;
- 14.1.3 it shall use all reasonable endeavours to achieve the outcomes in the Service Specification and that the outcomes shall be in accordance in all material respects with the Service Specification and accompanying documents;
- 14.1.4 the Provider's Personnel shall have the necessary skills, professional qualifications and experience to perform the Services in accordance with the Service Specification and industry standards and practice, the Provider being responsible for all costs, fees, expenses, and charges for training necessary or required for the Provider to perform the Services;
- 14.1.5 it has obtained all necessary and required licences, consents and permits as may be required to perform the Services;
- 14.1.6 it is not in default in the payment of any due and payable taxes or in the filing, registration or recording or any document or under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under the Contract.

- 14.2 Each of the parties acknowledges that in entering into this Contract it does not do so in reliance on any representation, warranty or other provision except as expressly provided in this Contract and any Clauses, warranties or other terms implied by statute, common law or custom and practice are excluded from this Contract to the fullest extent permitted by Law.

15. LIABILITY AND INDEMNITIES

- 15.1 No party excludes or limits liability to the other party for death or personal injury caused by its negligence or that of its Personnel, agents, contractors or sub-contractors, fraud by it or its Personnel or for any breach of obligation implied by Part 2 of the Supply of Goods and Services Act 1982.
- 15.2 The Provider shall indemnify the Purchaser fully against all claims, proceedings, actions, damages, legal costs, expenses and other liabilities arising out of or in

connection with this Contract, caused directly by any act or omission of the Provider in providing the Services, unless such injury, loss, damage, cost or expense is caused by the negligence or wilful misconduct of the Purchaser.

- 15.3 Subject to Clauses 15.1 and 15.2, neither party shall be liable to the other in any event for any loss of profits, turnover, business opportunities, damage to goodwill or anticipated savings and/or indirect or consequential loss or damage.
- 15.4 The Purchaser shall not, under any circumstances, be liable for any damage to the Provider's property or Premises.
- 15.5 The parties expressly agree that if any limitation or provision contained or expressly referred to in this Clause 15 is held to be invalid under any Law, it shall be deemed omitted to that extent, and if any party becomes liable for loss or damage to which that limitation or provision applied, that liability shall be subject to the remaining limitations and provisions set out in this Clause 15.
- 15.6 Nothing in this Clause 15 shall act to reduce or affect a party's general duty to mitigate its loss.

16. INSURANCE

- 16.1 The Provider shall at all times effect and maintain appropriate insurance policies with a reputable insurer in relation to the provision of the Services.
- 16.2 Public liability insurance shall be maintained in such sum as is deemed prudent in all the circumstances by the Provider and in any event with a minimum level of indemnity of £5 million for any one claim.
- 16.3 Employers' liability cover shall be maintained with a minimum level of indemnity of £10 million for any one claim.
- 16.4 The Provider shall maintain a valid policy or policies of professional indemnity insurance with a minimum level of indemnity of £1 million. Cover shall remain in place after the conclusion of the Services for a period of at least seven years.
- 16.5 The Provider shall produce evidence of the insurances in force before commencement of the Services, and on each anniversary of this Contract. A copy of the insurance documents shall be submitted to the Authorised Officer.
- 16.6 If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by this Clause, the Purchaser may make alternative arrangements to protect its interests and may recover the reasonable costs of such arrangements from the Provider. Such failure shall be regarded as a material breach of this Contract.
- 16.7 The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities under this Contract.
- 16.8 For the avoidance of doubt, minimum insurance levels shall not be a limit of liability under the Contract.

17. ASSIGNMENT AND SUB-CONTRACTING

- 17.1 The Provider shall not transfer, assign or sub-contract directly or indirectly to any person or organisation any part of this Contract without the previous written permission of the Purchaser.
- 17.2 Sub-contracting any part of this Contract shall not relieve the Provider of any obligation or duty attributable to the Provider under this Contract.
- 17.3 The Provider shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- 17.4 Any such permitted transfer, assignment or sub-contracting shall be on the same terms as this Contract, unless otherwise agreed between the parties.
- 17.5 The Purchaser shall be entitled to assign the benefit of the Contract or any part, including to any statutory successor, and shall give written notice of any such assignment to the Provider.

18. RIGHTS OF THIRD PARTIES

- 18.1 In accordance with the Contracts (Rights of Third Parties) Act 1999, a person who is not a party to this Contract shall not have any rights under or in connection with it.

19. WHISTLEBLOWING POLICY

- 19.1 The Provider shall be aware of and adhere to the principles set out in the Purchaser's whistleblowing policy in reporting concerns which arise during the Contract and shall ensure that its agents and sub-contractors do the same. The Purchaser's whistleblowing policy can be accessed on the Purchaser's website at www.dorsetcouncil.gov.uk

20. DISCRIMINATION

- 20.1 The Provider shall at all times operate a policy of equal opportunity in both staffing recruitment and service delivery. The Provider shall be required to forward a copy of this policy to the Purchaser when required and demonstrate its operation in the performance of the Services.
- 20.2 The Provider shall not unlawfully discriminate in the provision of the Services either directly or indirectly on such grounds as race, colour, ethnic or national origin, culture and linguistic background, disability, gender or sexual orientation, pregnancy and maternity, gender reassignment, marriage and civil partnership, religion or belief or age and, without prejudice to the generality of the foregoing, shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 or other relevant Law.
- 20.3 The Provider shall take all reasonable steps to secure the observance of this Clause by all Personnel engaged in the Services.
- 20.4 In the event of a finding of discrimination being made by any court or employment tribunal against the Provider or any sub-contractor appointed by the Provider during the performance of the Services, or of an adverse finding in any formal investigations by the Equality and Human Rights Commission during the performance of the

Services, the Provider shall inform the Purchaser of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.

20.5 The Provider shall indemnify the Purchaser in respect of any claims against the Purchaser which arise by reason of the Provider's breach of the Law referred to in Clause 20.2 where such breach arises in the performance of its obligations under this Contract.

20.6 The Provider may be required to answer questions raised by the Purchaser on matters referred to in this Clause.

21. CLAUSE NOT USED

22. HEALTH AND SAFETY

22.1 The Provider shall comply with the Health and Safety at Work etc Act 1974, and any other acts, orders and regulations and codes of practice relating to health and safety in the performance of the Services and is required to implement written policies which demonstrate such compliance.

22.2 The Purchaser shall be empowered to suspend the provision of the Services or part thereof in the event of non-compliance by the Provider with its legal duties in health and safety matters. The Provider shall not resume provision of the Services or such part until the Purchaser is satisfied that the non-compliance has been rectified.

22.3 The Provider shall promptly notify the Purchaser of any health and safety hazards or any incident which causes personal injury or damage which may arise in connection with the performance of the Services.

22.4 The Provider shall make its health and safety policy statement available to the Purchaser on request.

23. CLAUSE NOT USED

24. CLAUSE NOT USED

25. CLAUSE NOT USED

26. QUALITY ASSURANCE AND CONTROL

26.1 The Provider shall adhere to the standards detailed in the Service Specification and other appendices.

26.2 The Provider shall demonstrate compliance with its obligations under this Contract and maintain its own quality control programme. Particular emphasis shall be placed on the following areas:-

- (i) Service provision and outcomes. The Provider shall achieve the measurable outcomes specified in the Service Specification (Appendix 1) and demonstrate forward planning and consistency of delivery.

- (ii) Policies and procedures operated by the Provider and resultant practices within the Provider's organisation.
- 26.3 For the avoidance of doubt, nothing in this Contract is intended to prevent the Provider from achieving higher quality standards than those required by this Contract and the Provider shall make all reasonable efforts to comply with all best practice guidance in relation to the provision of the Services.
- 26.4 The parties shall maintain accurate accounts and records of all payments, receipts and financial and other information relevant to the provision of the Services.

27. CLAUSE NOT USED

28. CONTRACT MANAGEMENT AND MONITORING ARRANGEMENTS

- 28.1 The Provider shall take appropriate steps (which may include one or more contract implementation meetings) with the Purchaser to confirm the preferred communication and other procedures at the outset of the Contract.
- 28.2 The Provider shall promptly give notice to the Purchaser of the identity of the Provider's Contract Manager appointed to manage the Services and any replacement for them. Any Contract Manager shall be appropriately qualified and/or experienced for his responsibilities in relation to the Services.
- 28.3 The Purchaser shall monitor contract compliance, all financial and operational aspects of the Services and the standards of the Services provided against the performance indicators and outcomes in Appendix 4, with particular emphasis on quality.
- 28.4 The Authorised Officer shall be responsible for arranging and/or carrying out the monitoring of the Services.
- 28.5 Contract review meetings shall be held on a quarterly basis between the Provider's Contract Manager and/or other representatives and the Authorised Officer and other Purchaser representatives as needs be. The purpose of these meetings shall be to:
 - (i) monitor, review and evaluate the performance of the Provider against the Service Specification;
 - (ii) evaluate and review the information reported by the Provider in accordance with the Service Specification;
 - (iii) ensure that the data to be produced in accordance with the Service Specification has been reported accurately and that targets have been achieved;
 - (iv) measure the outcomes against the Service Specification and discuss and identify areas for improvement or more focus;
 - (v) provide an opportunity for the Provider and the Purchaser to openly discuss any areas for future development, gaps in provision, current barriers to success, etc.
- 28.6 The Provider shall submit such information as may be required by the Purchaser at least 10 Working Days prior to each contract review meeting, unless stated otherwise in the Service Specification.

- 28.7 Where there are areas of non-compliance with the terms of this Contract, the Provider shall be notified in writing and a corrective action plan and/or the provisions of Clause 29 – Contract Non-Compliance shall be followed at the Purchaser's discretion.
- 28.8 The Provider shall comply with all records and monitoring requirements as specified in this Contract and the Service Specification.
- 28.9 Any costs incurred by the Provider in attending any meetings shall be at the Provider's expense.
- 28.10 The Provider shall ensure that the Purchaser and/or their representatives or agents have reasonable access to the Services in order to benchmark, inspect, review and assess service delivery.

29. CONTRACT NON-COMPLIANCE

- 29.1 For the purposes of this Clause, Contract Non-Compliance means that in the opinion of the Purchaser, the Provider has failed either in whole or in part to comply with the terms of this Contract.
- 29.2 Contract Non-Compliance may be:
 - 29.2.1 Cautionary Non-Compliance meaning that in the reasonable opinion of the Purchaser, there has been a material breach of the Contract but this does not amount to Serious Non-Compliance or Unacceptable Non-Compliance;
 - 29.2.2 Serious Non-Compliance meaning that in the reasonable opinion of the Purchaser the Provider is in persistent material breach of the Contract;
 - 29.2.3 Unacceptable Non-Compliance meaning that in the reasonable opinion of the Purchaser there has been a fundamental breach of the Contract.
- 29.3 Where the Purchaser is satisfied through the contract monitoring process or by any other means (which shall be at the discretion of the Purchaser) that Contract Non-Compliance has occurred, the Provider shall be informed at the earliest opportunity.
- 29.4 Where the Purchaser is satisfied that there has been Contract Non-Compliance the Purchaser shall:
 - 29.4.1 make an assessment of the severity of the Contract Non-Compliance; and
 - 29.4.2 categorise the Contract Non-Compliance as:-
 - 29.4.2.1 Unacceptable Non-Compliance; or
 - 29.4.2.2 Serious Non-Compliance; or
 - 29.4.2.3 Cautionary Non-Compliance.
- 29.5 If Contract Non-Compliance is categorised as Unacceptable Non-Compliance, notice shall be served by the Purchaser on the Provider terminating the Contract with immediate effect.
- 29.6 If Contract Non-Compliance amounts to Serious Non-Compliance then the Purchaser may suspend the Contract with immediate effect by notice to the Provider until such

time as the Purchaser is satisfied at its discretion that the Serious Non-Compliance is remedied. This shall not prevent the Purchaser taking alternative action at its discretion to remedy the Contract Non-Compliance in accordance with the terms of this Contract.

- 29.7 Other than when Contract Non-Compliance is categorised as Unacceptable Non-Compliance, the Provider shall at the discretion of the Purchaser be given a reasonable period of time as determined by the Purchaser and notified to the Provider to remedy the Contract Non-Compliance.
- 29.8 If the Contract Non-Compliance is categorised as Serious Non-Compliance and the Provider fails to remedy the Serious Non-Compliance to the satisfaction of the Purchaser within such reasonable time period as is notified to the Provider under Clause 29.7 then the Purchaser shall be entitled to terminate the Contract by notice with immediate effect.
- 29.9 If Contract Non-Compliance is categorised as Cautionary Non-Compliance and is not remedied to the Purchaser's satisfaction within such a time period as is notified under Clause 29.7 then the Purchaser may decide in its discretion that the Contract Non-Compliance amounts to Serious Non-Compliance. In this event the Purchaser shall notify the Provider and the provisions of Clauses 29.6 and 29.8 shall then apply.
- 29.10 If Serious Non-Compliance and/or Cautionary Non-Compliance occur on more than three occasions in a period of three months, the Purchaser may terminate the Contract with immediate effect by notice to the Provider.
- 29.11 Notwithstanding the foregoing, in the event that the Purchaser reasonably considers that there has been Contract Non-Compliance by the Provider, then the Purchaser may, without prejudice to, and in addition to, its rights under this Clause and Clause 36, do any of the following:
 - 29.11.1 withhold or make such deduction from the Contract Price to be paid to the Provider as the Purchaser shall reasonably determine to reflect the sums paid or sums which would otherwise be payable in respect of those Services that the Provider has failed provide or performed inadequately;
 - 29.11.2 without terminating this Contract itself provide or procure the provision of part of the Services until such time as the Provider shall have demonstrated to the reasonable satisfaction of the Purchaser that the Provider will be able to perform such part of the Services in accordance with the Contract;
 - 29.11.3 without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself provide or procure a third party to provide such a part of the relevant Services.
- 29.12 The Purchaser may charge to the Provider any reasonable costs in respect of the provision of such part of the relevant Services by the Purchaser or by a third party, together with any reasonable administrative costs incurred by the Purchaser in procuring the provision of the Services by a third party due to the Provider's Contract Non-Compliance.

30. RESOLUTION OF DISPUTES

- 30.1 In the event that any disagreement or difference of opinion arises out of this Contract, the matter shall be dealt with as follows-
- 30.1.1 the contract managers for the Purchaser and the Provider shall meet to seek resolution. In the event that they do not meet within ten Working Days of the date on which either party convenes a meeting to resolve the matter or should they not be able to resolve the matter within ten Working Days of the first meeting, the matter shall be promptly referred to the Purchaser's Director of Corporate Services (or equivalent) or their nominee and the Provider's Chief Executive (or equivalent) or their nominee for resolution.
 - 30.1.2 if within fourteen Working Days of the matter having been referred for resolution in accordance with Clause 30.1.1 no agreement has been reached as to the matter in dispute, the parties shall thereafter seek to determine the matter in dispute by adopting the procedure set out below.
- 30.2 An independent expert shall be appointed by agreement between the parties. The parties shall promptly furnish to such expert all information relating to the dispute to enable them to give a decision as to what course of action in his reasonable opinion ought to be followed to give an outcome equitable to the parties taking into account the respective rights and obligations of the parties.
- 30.3 The decision of the expert shall be final and binding on the parties.
- 30.4 The parties shall share equally the fees and expenses of the expert unless the expert directs otherwise.
- 30.5 Alternatively, either party may refer the matter for decision to arbitration whereupon the parties shall comply with the following provisions-
- 30.5.1 the arbitration shall be governed by the provisions of the Arbitration Act 1996;
 - 30.5.2 the arbitration fees shall be met by the Purchaser and the Provider in equal shares;
 - 30.5.3 the decision of the arbitrator shall be binding on the parties.

31. LEGAL/OMBUDSMAN PROCEEDINGS

- 31.1 On written request from the Purchaser, the Provider or any of its Personnel, agents, officers, contractors or sub-contractors shall provide to that Purchaser all relevant information (including but not limited to documentation and statements from any Personnel, agent, officers, contractor or sub-contractor) and shall co-operate fully with and provide assistance and give evidence in connection with:
- 31.1.1 any legal or quasi-legal inquiry, arbitration or court proceedings in which the Purchaser may become involved; or
 - 31.1.2 any internal Purchaser disciplinary hearing arising out of or in connection with the Services or this Contract;
 - 31.1.3 any investigation by an ombudsman.

32. STATUTORY FUNCTIONS

- 32.1 Nothing in the Contract or these Clauses shall be read as preventing or inhibiting the Purchaser or the Provider from carrying out any such statutory or regulatory duty as each may respectively be under, or as derogating therefrom, or as inhibiting or fettering the exercise of any statutory or regulatory power which either may respectively possess.

33. INTELLECTUAL PROPERTY RIGHTS

- 33.1 Except as may be set out expressly in this Contract, no Party shall acquire the intellectual property rights of the other Party.
- 33.2 The Provider shall not use the logo of the Purchaser without prior consent.

34. PUBLICITY

- 33.1 The Provider shall seek written approval from the Purchaser prior to the publication of any publicity of the Services where the Purchaser is acknowledged.

35. SEVERANCE

- 35.1 If any Clause of this Contract is declared by any judicial or other competent authority or considered by the parties to be void, voidable, illegal or otherwise unenforceable:
- 35.1.1 the parties shall amend that provision in such reasonable manner as mutually agreed.
- 35.1.2 at the discretion of the parties it may be severed from this Contract and the remaining Clauses of this Contract shall except where otherwise provided remain in full force and effect unless otherwise terminable.

36. TERMINATION

- 36.1 The Purchaser may by notice in writing to the Provider terminate this Contract as from the date of service of such notice if:
- 36.1.1 the Provider passes a resolution or a court makes an order that the Provider be wound up otherwise than for the purpose of a bona fide solvent reconstruction or amalgamation; or
- 36.1.2 circumstances exist which entitle a court or a creditor to appoint a receiver, manager or administrator or which entitle a court otherwise than for the purpose of a bona fide solvent reconstruction or amalgamation to make a winding-up order regarding the Provider; or
- 36.1.3 the Provider undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988, which impacts adversely and materially on the performance of the Contract; or

- 36.1.4 the Provider becomes the subject of a voluntary arrangement under section 1 of the Insolvency Act 1986; or
 - 36.1.5 the Provider has a receiver, manager, administrator, or administrative receiver appointed over all or any part of its undertakings, assets or income, or has passed a resolution for its winding up; or
 - 36.1.6 the Provider has a petition presented to any court for its winding up or for an administration order; or
 - 36.1.7 the Provider is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986; or
 - 36.1.8 the Provider suffers any distress, execution or other process to be levied or enforced on any of its property by any third party and is not paid out, withdrawn or discharged within 7 days; or
 - 36.1.9 the circumstances specified in Clause 37, Prevention of Corruption or elsewhere in this Contract arise; or
 - 36.1.10 the Provider becomes bankrupt or makes a composition or arrangement with its creditors, or has a proposal in respect of the business for voluntary arrangements for a composition of debts or scheme of arrangement approved in accordance with the Insolvency Act 1986; or
 - 36.1.11 the Provider has been convicted of a criminal offence or act of grave misconduct in the conduct of its business; or
 - 36.1.12 the Provider has failed to comply with any obligations relating to the payment of any taxes or social security contributions.
- 36.2 The Purchaser may only exercise its right under Clause 36.1.3 within six months after a change of control occurs and shall not be permitted to do so where it has agreed in advance to the particular change of control that occurs. The Provider shall notify the Authorised Officer in writing immediately any change of control occurs.
- 36.3 This Contract shall terminate:
- 36.3.1 on the expiry of the Contract Period;
 - 36.3.2 immediately if any party commits a fundamental breach of the terms of this Contract with the offended party serving written notice to the party in breach giving details of the way in which it is considered they are in breach.
- 36.4 Either the Purchaser or the Provider may at any time by notice in writing to the other terminate this Contract as from the date of service of such notice whenever any of the following events occurs:
- 36.4.1 the other party commits a material breach of any of its obligations under or in relation to this Contract which is not capable of remedy or, if capable of remedy, is not remedied within 30 days after receipt of written notice from the non-breaching party of its intention to terminate; or

- 36.4.2 the other party is continually in breach or commits a series of repeated breaches of this Contract, which cannot be remedied with 30 days of written notice from the non-breaching party of its intention to terminate.
- 36.5 The Purchaser may terminate the Contract with immediate effect in accordance with Clause 29, Contract Non-Compliance.
- 36.6 The Purchaser and the Provider may terminate the Contract at any time on giving to the other not less than 3 months' notice in writing.
- 36.7 In any case where immediate termination is permitted, the Purchaser may, at its discretion, initially suspend the Contract.
- 36.8 The termination of this Contract howsoever arising is without prejudice to the rights, duties and liabilities of either party accrued at or prior to termination and subject thereto neither party shall have any further obligations to the other under this Contract. The Clauses of this Contract which expressly or impliedly have effect after termination shall continue to be enforceable notwithstanding termination.

37. PREVENTION OF CORRUPTION

- 37.1 The Purchaser shall be entitled to terminate the Contract immediately and recover from the Provider the amount of any loss or damage resulting from such cancellation if, in relation to this Contract or any contract with the Purchaser, the Provider or any person employed by them or acting on his behalf shall have committed:
 - 37.1.1 any fraud;
 - 37.1.2 an offence under the Bribery Act 2010 or shall have given any fee or reward, the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

38. CONSEQUENCES OF SUSPENSION OR TERMINATION

- 38.1 Following termination by the Purchaser of this Contract, the Provider shall be entitled to such proportion of the Contract Price as represents a fair and reasonable value of that part of the Services carried out up to the date of termination provided always that the Purchaser reserves the right to deduct from any such sum the amount of any claim the Purchaser may have in respect of any breach, Contract Non-Compliance and / or failure by the Provider to perform its obligations under this Contract.
- 38.2 The Purchaser shall not in any circumstances be liable to the Provider for any losses or expenses arising out of termination or suspension, and no payment shall be due from the Purchaser under this Contract during any period of suspension pursuant to Clause 29.6 or otherwise.
- 38.3 The Provider shall upon the termination of the Contract immediately deliver up to the Purchaser all correspondence, documents and other property belonging to the Purchaser which may be in its possession or under its control.
- 38.4 The provisions of this Clause shall survive the termination or expiry of this Contract.

39. FORCE MAJEURE

- 39.1 Neither party shall be liable for any delay in, or non-performance of, any obligation under this Contract (other than the payment of money) caused by an event beyond the reasonable control of that party including but not limited to acts of God, war, explosion, fire, strike, flood, riot or civil commotion, pandemic or epidemic, or any act or omission of the other party, or a force majeure event affecting a supplier, contractor or sub-contractor or a third party.
- 39.2 In the event such circumstances persist beyond a reasonable period given the nature of the event and its effect on the obligations under this Contract, then the other party shall have the right, for so long as the circumstances which prevent performance continue, to terminate this Contract by giving not less than 30 (thirty) Working Days' written notice to the other party.

40. LAW AND JURISDICTION

- 40.1 This Contract shall be governed by and construed in accordance with English Law and each party agrees to submit to the exclusive jurisdiction of the English Courts.
- 40.2 This Contract is binding on the Purchaser and the Provider, their successors and assignees.

41. CHANGE IN LAW

- 41.1 The Provider shall neither be relieved of its obligations under this Contract nor be entitled to an increase in the Contract Price and/or any charges payable as a result of a change in Law, if the change and its effect are known at the commencement of the Contract.
- 41.2 If a change in Law occurs or is shortly to occur which will significantly affect the provision of the Services or the cost of doing so, the Provider shall notify the Purchaser to express an opinion of the likely effects of the change including:-
- 41.2.1 whether any change is required to the Services, the Contract Price or this Contract; and
 - 41.2.2 whether the Provider requires any relief from compliance with its obligations.
- 41.3 If the parties to this Contract agree upon the effects of the change in Law and any financial consequences such agreement shall be implemented through the variation provisions of Clause 7.
- 41.4 In the case of any dispute arising under this Clause, it shall be resolved in accordance with Clause 30.

42. CONFLICT OF INTEREST

- 42.1 The Provider shall use reasonable endeavours to ensure that it and any of its Personnel, agents, suppliers, contractors or sub-contractors are not placed in a position where in the reasonable opinion of the Purchaser there is or may be an actual

or potential conflict between the pecuniary or personal interests of the Provider and others and the duties owed to the Purchaser under the provisions of the Contract. The Provider shall immediately disclose to the Purchaser full particulars of any such conflict of interest which may arise.

- 42.2 Where such a conflict does arise the Provider shall take any reasonable steps as are required by the Purchaser for ending or avoiding the actual or potential conflict of interest or alleviating its effect. If the Provider fails to comply or is unable to comply with such measures, then the Purchaser shall have the right by notice in writing to terminate this Contract immediately. If the Purchaser terminates this Contract in accordance with this Clause, it shall reimburse the Provider against any commitments, liabilities or expenditure incurred or to be incurred which are reasonably and properly payable by the Provider in connection with the Services. However, it is expressly agreed that the Purchaser shall not be liable to pay any severance payment or compensation to the Provider for loss of profits.
- 42.3 The provisions of this Clause shall apply during the continuance of the Contract and for a period of two years after its termination.

43. RIGHT OF SET OFF

- 43.1 Without prejudice to any other rights and remedies available to it, the Purchaser shall be entitled to set off all or any of its liabilities to the Provider against all or any of the Provider's liabilities to it, and any liability, damage, loss, charge or expense which the Purchaser has incurred in consequence of any breach by the Provider of its obligations under the Contract.

44. TUPE

- 44.1 At any time during the last twelve months of the Contract Period, the Provider shall provide to the Purchaser within 20 Working Days of a written request such information as the Purchaser may reasonably require in respect of TUPE.
- 44.2 The Provider shall comply with its obligations under Clause 11 in relation to any information supplied under Clause 44.1.
- 44.3 The Provider shall permit the Purchaser to use the information for the purposes of TUPE and re-tendering.
- 44.4 If TUPE applies on termination of this Contract then:-
- 44.4.1 the Provider agrees to indemnify the Purchaser fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision of the information under Clause 44.1;
- 44.4.2 the Provider agrees to indemnify the Purchaser from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities in connection with, or as a result of, any claim or demand by any Personnel or other personnel or person claiming to be an employee of the Provider on any date upon which the Contract expires or is terminated and/or transferred to any third party (Relevant Transfer Date) arising out of their employment

or its termination whether such claim or claims arise before or after the Relevant Transfer Date.

- 44.5 In the event that the information provided by the Provider in accordance with Clause 44.1 becomes inaccurate, whether due to changes to the employment and personnel details of the affected Personnel made subsequent to the original provision of such information or by reason of the Provider becoming aware that the information originally given was inaccurate, the Provider shall notify the Purchaser of the inaccuracies and provide the amended information within 10 Working Days.
- 44.6 The provisions of this Clause shall apply during the continuance of this Contract and indefinitely after its termination.

45 NOTICES

- 45.1 Any notice to be given under this Contract shall be in writing and shall be hand delivered or sent by first class mail to the address of the Provider or the Purchaser at the address set out at the head of this Contract, or such other address as that party may from time to time notify to the other party in accordance with this Clause.
- 45.2 Provided the notice sent as above is not returned as undelivered it shall be deemed to have been received:
- 45.2.1 if delivered by hand before 4.00 pm on a Working Day, at the time of delivery, otherwise receipt shall be deemed to occur at 9.00 am on the next following Working Day; or
- 45.2.3 if delivered by first class inland mail, two Working Days after the day of posting.
- 45.3 In proving the giving of a notice it shall be sufficient to prove that the notice was left or that the envelope containing the notice was properly addressed and posted.
- 45.4 Notice shall not be given by email.

46. RECOVERY OF SUMS DUE

- 46.1 Wherever any sum of money is recoverable from, or payable by, the Provider to the Purchaser, the Purchaser may unilaterally deduct that sum from any sum then due or which at any later time may become due to the Provider under any other contract with the Purchaser.
- 46.2 The Provider shall make any payments due to the Purchaser without any deduction whether by way of set-off, counterclaim, discount, abatement or otherwise unless the Provider has a valid court order requiring an amount equal to such deduction to be paid by the Purchaser to the Provider.

47. COUNTERPARTS

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

48. MODERN SLAVERY ACT 2015

48.1 The Provider warrants and undertakes that in performing its obligations under the terms of this Contract, it will:

48.1.1 comply with the Modern Slavery Act 2015; and

48.1.2 not engage in any activity, practice or conduct that would constitute an offence under the Modern Slavery Act 2015; and

48.1.3 include in its subcontracting arrangements provisions that are at least as onerous as those set out in this Clause.

48.2 The Provider warrants that neither it nor any of its officers, Personnel, agents or sub-contractors has:

48.2.1. committed an offence under the Modern Slavery Act 2015 ('a MSA Offence'); or

48.2.2 been notified that it is subject to an investigation relating to an alleged MSA Offence or prosecution under the Modern Slavery Act 2015; or

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

SIGNED BY

.....

Authorised Signatory

For and on behalf of **the Purchaser**

Name.....

Position

Date

SIGNED BY

.....

Authorised Signatory

For and on behalf of **the Provider**

Name.....

Position

Date

APPENDIX 1

Service Specification

To be inserted after contract award

APPENDIX 2

Pricing Schedule

Details to be inserted after contract award

APPENDIX 3

Processing, Personal Data and Data Subjects

The parties are Joint Controllers of the following Personal Data under the Contract:

[Insert description of Personal Data for which the Parties are Joint Controllers]

[Insert name, role and contact details for point of contact for Data Subjects regarding their Personal Data]

Your Name:

Provider Name:

Date:

Authorised Signature:

APPENDIX 4

Key Performance Indicators

KPIs to be agreed with Provider post award and inserted here