

Dated

[ ] day of [ ] 20[xx]



## SHORT FORM CONTRACT

FOR

THE PROVISION OF **FESTIVE LIGHTING SCHEME** GOODS AND/OR SERVICES IN  
MELTON

between

**MELTON BOROUGH COUNCIL**

**["THE COUNCIL"]**

and

**[INSERT NAME OF SUPPLIER]**

**["THE SUPPLIER"]**

**COMMENCEMENT DATE:**

**EXPIRY DATE:**

## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

### Table of Contents

#### A. PRELIMINARIES

1. DEFINITIONS AND INTERPRETATION
2. DUE DILIGENCE
3. WARRANTIES AND REPRESENTATIONS

4. ENTIRE AGREEMENT

#### B. DURATION OF CONTRACT

5. CONTRACT PERIOD

#### C. CONTRACT PERFORMANCE AND GOVERNANCE

6. SUPPLY OF GOODS AND/OR SERVICES
7. QUALITY STANDARDS AND GOVERNANCE
8. CONTINUOUS IMPROVEMENTS AND BEST VALUE DUTY
9. PERFORMANCE MONITORING
10. SUPPLIER'S FINANCIAL STABILITY
11. CORPORATE REQUIREMENTS
12. RECORD KEEPING AND MONITORING
13. AUDIT ACCESS AND INSPECTION

#### D. PAYMENT, EXPENSES AND TAXATION

14. PRICE AND PAYMENT
15. RECOVERY OF SUMS

#### E. SUPPLIER PERSONNEL AND SUPPLY CHAIN MATTERS

16. COUNCIL'S CONTRACT MANAGER
17. SUPPLIER'S CONTRACT MANAGER
18. SUPPLIER'S EMPLOYEES
19. RELATIONSHIPS OF THE PARTIES
20. DISCLOSURE & BARRING SERVICE (DBS) REQUIREMENTS
21. WORKFORCE COMPETENCIES AND TRAINING

#### F. INTELLECTUAL PROPERTY AND INFORMATION

22. INTELLECTUAL PROPERTY
23. CONFIDENTIALITY
24. DATA PROTECTION
25. FREEDOM OF INFORMATION
26. TRANSPARENCY
27. PUBLICITY

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **G. LIABILITY, INDEMNITY AND INSURANCE**

- 28. LIABILITY AND INSURANCE
- 29. LIMITATION OF LIABILITY

### **H. REMEDIES**

- 30. COUNCIL REMEDIES FOR DEFAULT
- 31. DISPUTE RESOLUTION PROCEDURE
- 32. CUMULATIVE REMEDIES

### **I. TERMINATION AND EXIT MANAGEMENT**

- 33. BREAK CLAUSE
- 34. TERMINATION
- 35. TUPE
- 36. CONSEQUENCES OF TERMINATION OR EXPIRY
- 37. EXIT MANAGEMENT

### **J. MISCELLANEOUS**

- 38. NOTICES
- 39. PREVENTION OF BRIBERY AND CORRUPTION
- 40. INDUCEMENTS
- 41. CONFLICTS OF INTEREST
- 42. COUNCIL'S POLICIES
- 43. EQUALITY AND DIVERSITY
- 44. ENVIRONMENTAL
- 45. HEALTH AND SAFETY
- 46. EQUIPMENT
- 47. TRANSFER, SUB-CONTRACTING AND RESPONSIBILITY
- 48. CONTRACT VARIATION / MODIFICATION
- 49. GOVERNING LAW AND JURISDICTION
- 60. CHANGE IN LAW
- 51. THIRD PARTY RIGHTS
- 52. NO WAIVER
- 53. SEVERANCE
- 54. FORCE MAJEURE

### **K. SAFEGUARDING**

- 55. SAFEGUARDING
- 56. COMPLAINTS AND SERIOUS UNTOWARD INCIDENTS

## **SIGNATURES PAGE**

**SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

**SCHEDULES:**

[\*\*SCHEDULE 1: GOODS AND/OR SERVICE SPECIFICATION\*\*](#)

[\*\*SCHEDULE 2: CONTRACT PRICE, PAYMENT AND INSURANCE\*\*](#)

[\*\*SCHEDULE 3: PERFORMANCE MONITORING AND REPORTING\*\*](#)

[\*\*SCHEDULE 4: REPRESENTATIVES OF THE PARTIES\*\*](#)

[\*\*SCHEDULE 5: PROCESSING PERSONAL DATA AND DATA SUBJECTS\*\*](#)

## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

[All the guidance notes that appear in these 'Contract Terms and Conditions' must be deleted before the Terms and Conditions and supporting Contract Schedules are issued as part of your Procurement documentation].

This Agreement is made on the [ ] day of [ ] 20[xx]  
[\*\* DO NOT DATE \*\* – the date will be inserted here once the Agreement has been signed by both parties]

Commented [KS1]: Legal will insert the date here – once Agreement has been signed by both parties. An original copy will then be logged and filed

### BETWEEN:

- (1) **Melton Borough Council** of is Parkside, Station Approach, Burton Street, Melton Mowbray, LE13 1GH (the "Council"); and
- (2) [Insert **Supplier's Registered Name**] (Company Registration number [xxxx] and/or Registration Charity number [xxxx]) whose registered address is [xxxx] (the "Supplier").

(together "the Parties" and each a "Party").

### WHEREAS:

The Council and the Supplier have entered into this Contract (as defined below) whereby the Supplier shall provide the Goods and/or Services (as defined in Schedule 1) on the terms and conditions and Schedules set out in this Contract and the Council shall pay to the Supplier the Price in respect of those Goods and/or Services (as set out in Schedule 2).

**IT IS HEREBY AGREED** as follows:

#### A. PRELIMINARIES

#### 1. DEFINITIONS AND INTERPRETATION

In this Contract the following terms and expressions shall have the following meanings:

**"Approval"** means the prior written consent of the Council and **"Approve"** and **"Approved"** shall be interpreted accordingly;

**"Auditor"** means:

- a) the Council's internal and external auditors;
- b) the Council's statutory or regulatory auditors;
- c) any party formally appointed by the Council to carry out audit or similar review functions; and successors or assigns of any of the above;

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

<b>"Best Value Duty"</b>	means the duty imposed by section 3 of the Local Government Act 1999 (the LGA 1999) as amended, and under which the Council is under a statutory duty to continuously improve the way its functions are exercised, having regard to a combination of economy, efficiency and effectiveness and to any applicable guidance issued from time to time;
<b>"Calendar Day"</b>	means a 24 hour day which shall include weekends and bank holidays in England and Wales;
<b>"Change in Law"</b>	means any change in Law or policy which impacts on the supply of the Goods and/or Services and performance of the Contract Terms which comes into force after the Commencement Date;
<b>"Commencement Date"</b>	means the date of commencement of this Contract;
<b>"Commercially Sensitive Information"</b>	means commercially sensitive information relating to the Supplier, its Intellectual Property or its business or which the Supplier has indicated to the Council that, if disclosed by the Council, would cause the Supplier significant commercial disadvantage or material financial loss;
<b>"Confidential Information"</b>	means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which relates to the Goods and/or Service, the business, affairs, properties, assets, trading practices, developments, trade secrets, Intellectual Property Rights, know-how, Employees and suppliers of either Party, all personal data and sensitive personal data (within the meaning of the Data Protection Act);
<b>"Contract"</b>	means these terms and conditions and any Schedules;
<b>"Contract Period"</b>	means the full term of this Contract from the Commencement Date until the Expiry Date, which shall in no event exceed a maximum duration of four (4) years;
<b>"Council"</b>	means Melton Borough Council and where the context so admits includes any person which takes over or assumes the statutory functions or administrative responsibilities of the Council (whether in whole or in part) or which is controlled by or is under common control with the Council (and the expression "control" shall mean the power to direct or cause the direction of the general management and policies of the person in question but only for so long as such control exists);
<b>"Council's Contract"</b>	means the person duly appointed by the Council and

#### SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

<b>"Manager"</b>	notified in writing to the Supplier to act as the representative of the Council for the purpose of the Contract or as amended from time to time, as set out in Schedule 4; (to be completed on award)
<b>"Data Controller"</b>	has the meaning given to it in the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> ), as amended from time to time;
<b>"Data Processor"</b>	has the meaning given to it in the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> ), as amended from time to time;
<b>"Data Sub-processor"</b>	means any third Party appointed to process Personal Data on behalf of the Supplier related to this Contract;
<b>"Data Protection Legislation"</b>	means: <ul style="list-style-type: none"><li>(i) the General Data Protection Regulation (<i>Regulation (EU) 2016/679</i>), the LED and any applicable national implementing Laws as amended from time to time;</li><li>(ii) the Data Protection Act 2018; and</li><li>(iii) all applicable Law about the processing of personal data and privacy;</li></ul>
<b>"Data Protection Impact Assessment"</b>	means an assessment by the Controller of the impact of the envisaged processing on the protection of Personal Data;
<b>"Data Subject "</b>	has the meaning given to it in the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> ), as amended from time to time;
<b>"Data Loss Event"</b>	means any event that results, or may result, in unauthorised access to Personal Data held by the Supplier under this Contract, and/or actual or potential loss and/or destruction of Personal Data in breach of this Contract, including any Personal Data Breach;
<b>"Data Subject Access Request"</b>	means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data;
<b>"Default"</b>	means any breach of the obligations of the Supplier (including but not limited to a material breach) or any other default, act, omission, negligence or negligent statement of the Supplier, the Supplier Employees or of its Sub-Contractors (howsoever arising) in connection with or in relation to the subject-matter of this Contract and in respect of which the Supplier is liable to the Council;
<b>"Delivery"</b>	means in respect of Goods, the time at which the Goods

#### SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

have been delivered and, in respect of Services, the time at which the Services have been provided or performed by the Supplier in accordance with this Contract and accepted by the Council, and "Deliver" and "Delivered" shall be interpreted accordingly;

<b>"Delivery Instructions"</b>	means the instructions provided in the Specification and/or any other information that the Council considers appropriate for the provision of the Goods and/or Services;
<b>"Disclosure &amp; Barring Service (DBS)"</b>	means the Non-Departmental Public Body which helps employers make safer recruitment decisions and prevents unsuitable people from working with vulnerable groups, including children and vulnerable adults;
<b>"DBS Check(s)"</b>	means a Criminal Records Check on an individual carried out through the Disclosure & Barring Service (DBS);
<b>"Dispute"</b>	means any dispute, difference or question of interpretation arising out of or in connection with this Contract, including any dispute, difference or question of interpretation relating to the Goods and/or Services, failure to agree in accordance with the Variation procedure or any matter where this Contract directs the Parties to resolve an issue by reference to the Dispute Resolution Procedure;
<b>"Dispute Resolution Procedure"</b>	means the dispute resolution procedure set out in this Contract, clause 31 (Dispute Resolution Procedure);
<b>"Due Diligence Information"</b>	means any information supplied to the Supplier by or on behalf of the Council prior to the Contract Commencement Date;
<b>"EIR"</b>	means the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations;
<b>"Employee"</b>	means all persons engaged by the Supplier to perform this Contract and which shall include the Supplier's directors, officers, employees, agents, consultants, suppliers and/or any Sub-contractor;
<b>"Enhanced DBS Check &amp; Barred List Check"</b>	means a disclosure of information comprised in an Enhanced DBS Check, together with information from Barred List Check (child & adult) as appropriate;
<b>"Expiry Date"</b>	means: <ul style="list-style-type: none"><li>(i) the end date of the initial Contract Period or any Extension Period; or</li><li>(ii) if this Contract is terminated before the date</li></ul>



#### SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

specified in (i) above, the earlier date of termination of this Contract;

<b>"Extension Period"</b>	means the extension term of this Contract from the end date of the initial Contract Period to the end date of the Extension Period, as stated in clause 5.2;
<b>"FOIA"</b>	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 regulations;
<b>"Force Majeure"</b>	means any event materially affecting the performance by a Party of its obligations under this Contract arising from any act, event, omission, happening or non-happening beyond its reasonable control affecting either Party, including, but not limited to: fire, flood, earthquake, storm or other natural disaster, epidemic or pandemic, explosion, terrorist attack; nuclear, chemical or biological contamination; compliance with any governmental order/regulation which comes into effect after the Commencement Date;
<b>"Fraud"</b>	means any offence under any Laws creating offences in respect of fraudulent acts (including the Misrepresentation Act 1967) or at common law in respect of fraudulent acts including acts of forgery;
<b>"General Change in Law"</b>	means a Change in Law where the change is of a general legislative nature (including taxation or duties of any sort affecting the Supplier) and which is not a Specific Change in Law;
<b>"Goods"</b>	means the goods to be provided by the Supplier to the Council as specified in Schedule 1 (the Goods Specification) in accordance with the Contract;
<b>"Good Industry Practice"</b>	means standards, practices, methods and procedures conforming to the Law and the exercise of such degree of skill, diligence, care and foresight which would reasonably and ordinarily be expected from a skilled and experienced Supplier engaged in the supply of Goods and/or Services similar to the Goods and/or Services under the same or similar circumstances as those applicable to this Contract;
<b>"Intellectual Property"</b>	means patents, inventions, trademarks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names and other similar rights or obligations whether registerable or

#### SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

not in any country (including but not limited to the United Kingdom) and the right to sue for passing off;

<b>"Law"</b>	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, bye-law, regulation, order, regulatory policy, mandatory guidance or code of practice, judgement of a relevant court of law, or directives or requirements of any regulatory body of which the Supplier is bound to comply;
<b>"LED"</b>	means the Law Enforcement Directive ( <i>Directive (EU) 2016/680</i> );
<b>"Liabilities"</b>	means all costs, actions, demands, expenses, losses, damages, claims, proceedings, awards, fines, orders and other liabilities (including reasonable legal and other professional fees and expenses) whenever arising or brought;
<b>"Materials"</b>	means any and all works of authorship and materials developed, written or prepared on whatever media for the purposes of or in connection with the Goods and/or Services including, without limitation, any and all reports, studies, data, databases, diagrams, charts, specifications, software, pre-contractual and contractual documents and all drafts thereof and working papers relating thereto;
<b>"Month"</b>	means a calendar month and <b>"Monthly"</b> shall be interpreted accordingly;
<b>"Party"</b>	means the Council or the Supplier and <b>"Parties"</b> shall mean both of them;
<b>"Personal Data and Personal Data Breach"</b>	has the meaning given to it in the General Data Protection Regulation ( <i>Regulation (EU) 2016/679</i> ), as amended from time to time;
<b>"Premises"</b>	means premises owned, controlled or occupied by the Council, which are made available for use by the Supplier or its Sub-Contractors for provision of the Goods and/or Services (or any of them);
<b>"Price"</b>	means the total price of the Goods and/or Services (exclusive of any applicable VAT) as set out in the Quotation, payable to the Supplier by the Council under this Contract as set out in Annex 1 of Schedule 2 (Contract Price, Payment and Insurance); <b>(to be completed on award)</b>

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **"Protective Measures"**

means 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;

### **"Prohibited Act"**

means any of the following constitute prohibited acts:

- a) to directly or indirectly offer, promise or give any person working for or engaged by the Council 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 Contract;
- c) committing any offence:
  - i) under the Bribery Act 2010; or
  - ii) under legislation or common law creating offences concerning fraudulent acts relating to this Contract or any other contract with the Council; or
  - iii) defrauding, attempting to defraud or conspiring to defraud the Council; or
  - iv) any activity, practice or conduct which would constitute one of the offences listed under (c) above if such activity, practice or conduct had been carried out in the UK;

### **"Quotation"**

means the Supplier's quotation for the Goods and/or Services in response to the Council's Request for Quotation;

### **"Records"**

means all documents, data or other information relating to, produced, or received as part of or in connection with the Goods and/or Services and stored on whatever medium;

### **"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 the Contract or any other affairs of the Suppliers and **"Regulatory Body"** shall be interpreted accordingly;

## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

<b>"Replacement Supplier"</b>	means any company, organisation or person who replaces the Supplier following termination or expiry of all or part of this Contract;
<b>"Schedules"</b>	means the schedules attached to this Contract;
<b>"Serious Untoward Incident"</b>	means an incident or accident or near-miss where a person whether a Service User, member of staff or member of the public suffers serious harm or injury, major permanent harm or unexpected death on the Supplier's premises or where the Services are being delivered or where the actions of the Supplier, the Employees or the Council are of significant public concern;
<b>"Services"</b>	means the services to be provided by the Supplier to the Council as specified in Schedule 1 (the Services Specification) in accordance with the Contract, together with all equipment required and any associated goods provided by the Supplier in relation to those services;
<b>"Service Users"</b>	means those individuals who access the Services;
<b>"Specification"</b>	means the specification setting out the Council's detailed requirements in relation to the Goods and/or Services to be carried out as set out at Schedule 1 (to be attached on award);
<b>"Specific Change in Law"</b>	means a Change in Law that relates specifically to the business of the Council and which would not affect a comparable Supply;
<b>"Standards"</b>	<p>means any Technical and/or Quality:</p> <ul style="list-style-type: none"><li>(i) standards published by BSI British Standards, the National Standards Body of the United Kingdom, the International Organisation for Standardisation or other reputable or equivalent bodies (and their successor bodies) that a skilled and experienced operator in the same type of industry or business sector as the Supplier would reasonably and ordinarily be expected to comply with; or</li><li>(ii) standards detailed in the contract specification (Goods and/or Services) or agreed between the Parties from time to time;</li></ul> <p>relevant Government codes of practice and guidance applicable from time to time;</p>
<b>"Sub-Contract"</b>	means any contract or agreement or proposed contract or agreement between the Supplier and any third party whereby that third party agrees to provide to the Supplier the Goods and/or Services or any part thereof or facilities, services necessary for the provision of the Goods and/or Services or any part thereof or necessary for the

#### SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

	management, direction or control of the provision of the Goods and/or Services or any part thereof;
"Sub-Contractor"	means any person engaged by or on behalf of the Supplier as may be permitted under this Contract;
"Supplier"	means the person, firm or company with whom the Council enters into the Contract as identified in the Form of Contract;
"Supplier's Contract Manager"	means the name of the person duly notified to the Council in writing by the Supplier as the person responsible for managing the Contract, as set out in Schedule 4 (to be completed on award);
"Supplier's Equipment"	means the Supplier's hardware, computer and telecoms devices, equipment, plant, materials and such other items supplied and used by the Supplier (but not hired, leased or loaned from the Council) in the performance of its obligations under this Contract;
"Termination Notice"	means a written notice of termination given by one Party to the other, notifying the Party receiving the notice of the intention of the Party giving the notice to terminate this Contract on a specified date and setting out the grounds for termination;
"Valid Invoice"	means an invoice issued by the Supplier to the Council that contains all appropriate references and a detailed breakdown of the Goods and/or Services provided and that is supported by any relevant documentation reasonably required by the Council to substantiate the invoice;
"VAT"	means value added tax in accordance with the provisions of the Value Added Tax Act 1994;
"Working Day"	means Monday to Friday, excluding public and bank holidays in England and Wales;
"Year"	means a calendar year and "Annually" shall be interpreted accordingly.

#### 1.2 Reference in this Contract to:

- 1.2.1 any statute, statutory instrument, order, regulation or other similar instrument ("legislation") shall be construed as a reference to the legislation as amended, replaced or re-enacted from time to time;
- 1.2.2 any reference to a statutory regulatory or registration body or authority shall include any successor body or authority or replacement from time to time performing the same or similar functions;

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

1.2.3 (except where the context otherwise requires) words denoting the singular include the plural and vice-versa, words denoting any gender include all genders and words denoting persons include suppliers and corporations and their successors and permitted assigns or transferees and vice-versa; and

1.3 Any reference to a person shall include any natural person, partnership, joint venture, body corporate, incorporated association, government, governmental agency, persons having a joint or common interest, or any other legal or commercial entity or undertakings.

1.4 The index and headings to the clauses, appendices and schedules of this Contract are for ease of reference only and will not affect its construction or interpretation.

## **2 DUE DILIGENCE**

2.1 The Supplier acknowledges that:

2.1.1 the Council has delivered or made available to the Supplier all of the information and documents that the Supplier considers necessary or relevant for the performance of its obligations under this Contract; and

2.1.2 it has made its own enquiries to satisfy itself as to the accuracy and adequacy of the Due Diligence Information and has entered into this Contract in reliance on its own due diligence alone.

## **3 WARRANTIES AND REPRESENTATIONS**

3.1 The Supplier warrants and represents that:

3.1.1 it has full capacity and authority to enter into and to perform its obligations under this Contract;

3.1.2 it has all necessary licences, rights and permissions to carry out its obligations under this Contract;

3.1.3 it has full, clear and unencumbered title to all the Goods supplied and on Delivery the Council shall acquire a valid and unencumbered title to the Goods; [Guidance note – delete clause 3.1.3 for Service only Contracts]

3.1.4 this Contract is executed by its duly authorised representatives;

3.1.5 in entering the Contract it has not committed any Fraud and/or offence under the Prevention of Corruption Acts 1889 to 1916, or the Bribery Act 2010;

3.1.6 this Contract shall be performed in compliance with all Laws (as amended from time to time) and all applicable Standards;

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 3.1.7 it shall act in good faith in the performance of all terms and obligations set out in this Contract, and shall take such action as may be necessary or appropriate in order to perform this Contract;
- 3.1.8 it shall conduct its business in a manner that is consistent with the principles of the Modern Slavery Act 2015;
- 3.1.9 it is not in Default in the payment of any due and payable taxes or social security contributions or in the filing, registration or recording of any document required by Law which Default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform the Goods and/or Services or its obligations under the Contract;
- 3.2 The Supplier warrants and represents that for the Contract Period the Goods and/or Services will be provided:
  - 3.2.1 in a proper, skilful and workmanlike manner;
  - 3.2.2 by a sufficient number of appropriately qualified, trained and experienced Employees with a high standard of skill, care and due diligence and in accordance with good industry practice and, where applicable, will be subject to staff vetting procedures, quality standards and any DBS requirements notified to the Supplier from time to time;
  - 3.2.3 in accordance in all respects with the requirements of any applicable Law from time to time in force and that it has and will continue to hold all necessary regulatory approvals from any regulatory body necessary to perform the Supplier's obligations under the Contract;
  - 3.2.4 in accordance with the specification set out in Schedule 1 to this Contract and any descriptions provided by the Supplier;
  - 3.2.5 to the reasonable satisfaction of the Council and of satisfactory quality;
- 3.3 If at any time the Council becomes aware that a warranty or representation given by the Supplier under clauses 3.1 to 3.2 has been breached, is untrue or is misleading, it shall immediately notify the Supplier of the relevant occurrence in sufficient detail to enable the Supplier to make an accurate assessment of the situation.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **4 ENTIRE AGREEMENT**

- 4.1 The Contract and the documents referred to in it constitute the entire agreement between the Parties relating to the subject matter of this Contract. The Contract supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this clause 4.1 shall not exclude liability in respect of any fraudulent misrepresentation.

### **B. DURATION OF CONTRACT**

#### **5 CONTRACT PERIOD**

- 5.1 The Contract shall commence on the Commencement Date and, [subject to clause 5.2], shall continue for the Contract Period unless terminated as hereinafter provided.
- 5.2 [Guidance Note – insert clause 5.2 if a contract extension option applies, otherwise delete, as well as delete the reference to clause 5.2. within clause 5.1 above]. The Council shall have the option to extend the Contract for a maximum period of six (6) Months from the end of the initial Contract Period, subject to satisfactory performance by the Supplier during the period set out in clause 5.1 and in accordance with the Council's business requirements. If the Council chooses to extend the Contract, the Supplier shall be notified in writing within twenty (20) Working Days before the end of the Contract Period.

### **C. CONTRACT PERFORMANCE AND GOVERNANCE**

#### **6 SUPPLY OF GOODS AND/OR SERVICES**

- 6.1 The Supplier shall supply the Goods and/or Services during the Contract Period in accordance with the Specification and Council's requirements as set out in this Contract. The Supplier agrees that the Council relies on the skill and judgment of the Supplier in the provision of the Goods and/or Services and the performance of its obligations under this Contract during the Contract Period.
- 6.2 If the Council informs the Supplier in writing that the Council reasonably believes that any part of the Goods and/or Services does not meet the requirements of the Contract or differs in any way from those requirements, the Supplier shall at its own expense re-schedule and carry out the Goods and/or Services in accordance with the requirements of the Contract within such reasonable time as may be specified by the Council.



## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **7 QUALITY STANDARDS AND GOVERNANCE**

- 7.1 The Supplier shall be responsible for obtaining and maintaining all licences, authorisations, consents or permits required in relation to the performance of its obligations under this Contract.
- 7.2 The Supplier shall at all times comply with the Technical Standards and the Quality Standards specified in the Contract, and where applicable shall maintain accreditation with the relevant Quality Standards' authorisation body. To the extent that the standard to which the Goods and/or Services must be provided has not been specified in the Contract, the Supplier shall agree the relevant standard for the provision of the Goods and/or Services with the Council prior to the provision of the Goods and/or Services commencing, and in any event, the Supplier shall perform its obligations under the Contract in accordance with all applicable Law and Good Industry Practice.
- 7.3 The Supplier shall be responsible for the accuracy of all drawings, plans, documentation and information supplied to the Council in connection with the performance of this Contract.
- 7.4 The Supplier shall ensure that its Employees shall at all times during the Contract Period:
- 7.4.1 faithfully and diligently perform those duties and exercise such powers as necessary in connection with the provision of the Goods and/or Services;
  - 7.4.2 obey all lawful instructions and reasonable directions of the Council and provide the Goods and/or Services to the reasonable satisfaction of the Council; and
  - 7.4.3 apply all reasonable skill, care and diligence.
- 7.5 The Supplier shall perform its obligations under the Contract in a timely manner.
- 7.6 The Supplier shall, at no additional charge, provide on request to the Council complete and accurate data, Management Information and Performance Monitoring Reports in accordance with the provisions of the Specification and/or Schedule 3 (Performance Monitoring and Reporting).

### **8 CONTINUOUS IMPROVEMENTS AND BEST VALUE DUTY**

- 8.1 The Supplier shall have an ongoing obligation throughout the Contract Period to identify new or potential improvements to the provision of the Goods and/or Services, with a view to reducing the Council's costs and/or improving the quality and efficiency of the Goods and/or Services and their supply. The Supplier shall ensure that the information that it provides to the Council shall be sufficient for the Council to decide whether any improvement should be implemented.

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 8.2 The Supplier must (to the extent that is reasonably practicable) co-operate with and assist the Council in fulfilling its Best Value Duty.

### **9 PERFORMANCE MONITORING**

- 9.1 The Supplier shall perform the Goods and/or Services in accordance with the Specification set out in Schedule 1 to this Contract and shall comply and co-operate with any reasonable instructions given by the Council's Contract Manager.
- 9.2 The Supplier shall comply with the monitoring arrangements referred to in this Contract including, but not limited to, providing such data, Management Information and Performance Monitoring Reports as the Supplier may be required to produce in accordance with the provisions of this Contract.
- 9.3 The Supplier shall be responsible for compliance with and ensure that all obligations are performed in accordance with the health and safety requirements and any information and data security policy or rules notified by the Council to the Supplier from time to time.
- 9.4 The Supplier will be responsible at its own cost and expense for the provision of all necessary Employees, Materials and equipment for the management and execution of any obligation under the Contract.
- 9.5 If the Supplier at any time becomes aware of any material matter that could affect the performance of the Goods and/or Services in accordance with the Contract, the Supplier shall inform the Council immediately.

### **10 SUPPLIER'S FINANCIAL STABILITY**

- 10.1 The Supplier shall notify the Council immediately if it becomes aware of anything, any event or occurrence, current or future that may result in the Supplier potentially being unable to continue as a going concern.

### **11 CORPORATE REQUIREMENTS**

- 11.1 The Supplier shall comply with the terms of the Human Rights Act 1998 as if it were a public body and was subject to its terms.
- 11.2 The Supplier shall comply with the Modern Slavery Act 2015 and shall notify the Council immediately in writing if it becomes aware or has reason to believe that it or any of its officers, Employees, agents or Sub-contractors, have committed an offence under the Modern Slavery Act 2015. Such notice shall set out full details of the circumstances of the breach or the potential breach of the Supplier's obligations.
- 11.3 The Supplier shall perform its obligations under this Contract in accordance with:
- 11.3.1 all applicable Law and Good Industry Practice;
- 11.3.2 Council policies and rules on, but not limited to, equality and diversity; environmental; health and safety; whistleblowing and/or any other

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

Council policies and rules that the Council may deem appropriate from time to time.

### **12 RECORD KEEPING AND MONITORING**

- 12.1 In order to assist the Council in its record keeping and monitoring requirements including auditing and National Audit Office requirements, the Supplier shall keep and maintain for six (6) years (or such longer time period required in accordance with any specific legislation) after the termination or expiry of the Contract, full and accurate records and accounts of the Contract including the Goods and/or Services supplied under it, all expenditure reimbursed by the Council, and all payments made by the Council. The Supplier shall on request allow the Council or the Council's authorised representatives such access to (and copies of) those records and accounts as may be required by the Council in connection with the Contract.
- 12.2 The Supplier shall keep the records and accounts referred to in clause 12.1 in accordance with Law and Good Industry Practice and shall maintain throughout the Contract Period safe and effective procedures against the destruction or loss or unauthorised use or alteration of the records and accounts.

### **13 AUDIT ACCESS AND INSPECTION**

- 13.1 The Supplier shall permit any Auditor access to the records and accounts referred to in clause 12.1 at the Supplier's premises and/or provide records and accounts or copies of the same, as may be required by any of the Auditors from time to time during the Contract Period.
- 13.2 The Council shall have the right from time to time to conduct an inspection of the Suppliers premises, operations, facilities, working conditions and its quality, environmental, equality and diversity and health and safety procedures and systems as may be required by the Supplier to provide the Goods and/or Services under this Contract.

## **D. PAYMENT, EXPENSES AND TAXATION**

### **14 PRICE AND PAYMENT**

- 14.1 The Council shall pay the Price for the Goods and/or Services to the Supplier as set out in Schedule 2 (Contract Changes, Payments and Insurance) (to be attached on award) of the Contract, which shall be inclusive of all costs and expenses incurred by the Supplier in providing the Goods and/or Services, in accordance with the terms of this Contract.
- 14.2 The Contract Price does not include Value Added Tax (VAT). The Supplier shall add VAT to the Price at the prevailing rate as applicable and will be paid by the Council following delivery of a Valid Invoice.
- 14.3 The Price shall be payable by the Council [Monthly/Quarterly] in arrears provided that the Supplier submits a Valid Invoice containing appropriate details

**SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

as agreed with the Council's Contract Manager together with documentary evidence required to substantiate the invoice.

- 14.4 Unless otherwise agreed in writing by both Parties, within ten (10) Calendar Days of the end of each [Month/Quarter] the Supplier shall submit a Valid Invoice to the Council. Such invoices shall contain a detailed breakdown of the Goods and/or Services provided by the Supplier as agreed by the Supplier's Contract Manager and be supported by documentary evidence.
- 14.5 Payment of any valid and undisputed invoice will be made no later than thirty (30) Calendar Days following the date of receipt and agreement of the invoice by the Council for Goods and/or Services supplied to the satisfaction of the Council.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 14.6 Where the Supplier enters into a Sub-contract it shall ensure that a provision is included in such Sub-contract which requires payment to be made of all sums due by the Supplier to the Sub-contractor no later than thirty (30) Calendar Days following the date of receipt and agreement of a valid and undisputed invoice, in accordance with the terms of the Sub-contract.
- 14.7 The Council reserves the right to withhold payment of the relevant part of the Price without payment of interest where the Supplier has either failed to provide the Goods and/or Services at all or has provided the Goods and/or Services inadequately and any invoice relating to such Goods and/or Services will not be paid unless or until the Goods and/or Services have been supplied to the Council's satisfaction.
- 14.8 The Council will be entitled but not obliged at any time or times without notice to the Supplier to set off any liability of the Council to the Supplier against any liability of the Supplier to the Council (in either case howsoever arising and whether any such liability is present or future, liquidated or unliquidated and irrespective of the currency) and may for such purpose convert or exchange any sums owing to the Supplier into any other currency or currencies in which the obligations of the Council are payable under this Contract. The Council's rights under this clause 14.8 will be without prejudice to any other rights or remedies available to the Council under this Contract or otherwise.
- 14.9 Where the Council seeks to vary the scope, frequency or performance of the Goods and/or Services (a "Variation"), such Variation shall be discussed with the Supplier. Where such Variation is agreed with the Supplier, the Supplier shall be bound to carry out the Goods and/or Services as so varied. Upon such variation the Price payable to the Supplier shall be revised in accordance with the Variation procedures detailed in clause 47 (Contract Variation) to properly and fairly reflect the nature and extent of the Variation. The Supplier shall provide the Council with such information and documentation as the Council may reasonably require to calculate the Price Variation.
- 14.10 Each of the Parties will pay their own costs and expenses incurred in connection with the negotiation, preparation, execution, completion and implementation of this Contract.

## **15 RECOVERY OF SUMS**

- 15.1 If any sum of money shall at any time have been, or becomes, recoverable from, or payable by the Supplier to the Council (including any sum which the Supplier is liable to pay to the Council in respect of any breach of the Contract), the Council is entitled to deduct that money from any moneys due under this Contract or any other contract between the Council and the Supplier, irrespective of when such money shall have been or becomes payable or recoverable.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **E. SUPPLIERS PERSONNEL AND WORKFORCE MATTERS**

#### **16 COUNCIL'S CONTRACT MANAGER**

- 16.1 The Council shall at all times during the period of the Contract employ a competent Contract Manager authorised to act on behalf of the Council for all purposes connected with this Contract. Details of that person are set out in Schedule 4.

[Guidance Note: Schedule 4 to be completed on award]

#### **17 SUPPLIER'S CONTRACT MANAGER**

- 17.1 The Supplier shall employ a competent and authorised Contract Manager authorised to act on behalf of the Supplier for all purposes connected with the Contract. This could be the service manager or another suitable authorised Employee. Details of that person are set out in Schedule 4.

[Guidance Note: Schedule 4 to be completed on award]

- 17.2 The Supplier shall ensure that the Council is aware who the Contract Manager is and who, in their absence, is suitable and authorised to act.

#### **18 SUPPLIER'S EMPLOYEES**

- 18.1 The Supplier shall ensure that all Employees engaged in the provision of Goods and/or Services under this Contract:

18.1.1 are appropriately qualified, trained and experienced to provide the Goods and/or Services with all reasonable skill, care and diligence;

18.1.2 are vetted in accordance with Good Industry Practice and, where applicable, the DBS requirements and the Standards of the Council;

18.1.3 have the legal right to work in the United Kingdom; and

18.1.4 comply with all reasonable requirements of the Council concerning conduct at the Council Premises, including Health and Safety and security requirements notified to the Supplier from time to time;

- 18.2 The Supplier shall ensure that, where appropriate, the national minimum wage is paid to relevant Employees in accordance with the National Minimum Wage Act 1998.

- 18.3 The Supplier shall ensure that during the Contract Period it has sufficient Employees to provide the Goods and/or Services to the specified quality Standards during periods of staff absences due to sickness, maternity leave, paternity leave, staff holidays or otherwise.

- 18.4 The Supplier shall procure that the Supplier Employees shall vacate the Council Premises immediately upon the termination or expiry of the Contract.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **19 RELATIONSHIPS OF THE PARTIES**

- 19.1 Nothing in this Contract, and no action taken by the Parties pursuant to this Contract, is intended to create a partnership or legal relationship of any kind that would impose liability upon one Party for the act or failure to act of the other Party, or to authorise either Party to act as agent for the other Party. Neither Party shall have authority to make representations, act in the name of, or on behalf of, or to otherwise bind the other Party save as expressly permitted by the terms of this Contract.
- 19.2 At all times during the Contract Period the Supplier shall be an independent contractor and nothing in the Contract shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties.

### **20 DISCLOSURE & BARRING SERVICE (DBS) REQUIREMENTS**

- 20.1 The Supplier shall make the necessary arrangements to ensure compliance with the requirements of Section 11 of the Children Act 2004, the Safeguarding Vulnerable Groups Act 2006 (the "SVA Act"), (as amended by the Protection of Freedoms Act 2012 and any other subsequent relevant legislation) in respect of all Employees and individuals engaged in the provision of the Goods and/or Services, and the duty to safeguard and promote the welfare of children in the delivery of all aspects of the Goods and/or Services.
- 20.2 The Supplier shall ensure that all Employees and individuals engaged in the provision of the Goods and/or Services are registered and enrolled on the Independent Safeguarding Authority list and are subject to a valid enhanced disclosure check through the Disclosure and Barring Service ("DBS") including a check against the adults' barred list and the children's barred list and that such check shall be renewed at least every three years, and the Supplier shall monitor the level and validity of the checks under this clause 20.2 for each Employee and individual. The Supplier shall ensure that no Employees or individuals engaged in the provision of the Goods and/or Services are barred from the activity in accordance with the provisions of the SVA Act.
- 20.3 The Supplier shall keep records of all checks carried out pursuant to clause 20.2 which shall be stored in accordance with the DBS Code of Practice and the General Data Protection Regulation and the Data Protection Act 2018. On or before the Commencement Date the Supplier shall provide the Council with details of the disclosure numbers and dates the disclosures were made, in respect of all Employees and individuals. As and when additional checks are carried out (pursuant to clause 20.2) the Supplier shall provide the Council with details of the disclosure numbers and dates the disclosures were made, promptly.
- 20.4 Where the disclosure information on a DBS certificate reveals criminal activity, a risk assessment must be carried out and kept by the Supplier and a copy provided promptly to the Council upon completion.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 20.5 The Supplier will comply with Good Industry Practice and any relevant industry standards and guidance in relation to following good practice and carrying out repeat DBS checks where required, for the avoidance of doubt the Supplier shall bear the costs of or arising from complying with this clause 20.
- 20.6 The Supplier shall indemnify the Council against all Liabilities incurred by the Council arising from or connected to of the Supplier's failure to comply with this clause 20.

## **21 WORKFORCE COMPETENCIES AND TRAINING**

- 21.1 The Supplier will ensure that all Employees are competent in their role and are actively engaged in staff development procedures. The Supplier will:
- 21.1.1 be able to evidence their compliance with any national occupational standards, and employ Employees according to relevant procedures and competencies and ensure that all job descriptions are mapped to national occupational standards and outline the role, responsibilities and competencies required to effectively carry out the post;
  - 21.1.2 ensure that all Employees are aware of and comply with relevant sections of national legislation governing their roles;
  - 21.1.3 ensure that staff induction, supervision and appraisal procedures are all in place and submit copies and review dates of all human resources policies and protocols on request;
  - 21.1.4 identify and make available resources for on-going training needs and professional development, determined by a competency analysis based on national occupational standards, including attendance at any training deemed appropriate and necessary by the Council;
  - 21.1.5 have appropriate conduct and disciplinary procedures approved by the Council in place and enforce these;
  - 21.1.6 have a named individual as a contact for workforce issues, who will disseminate information to the respective colleagues;
  - 21.1.7 ensure that there is at all times a sufficient level of appropriate staff cover to provide a safe, effective and accessible service.
- 21.2 The Supplier must maintain and keep accurate records on individual Employee members, which should include (but not limited to) personal details of recruitment, induction, training, supervision and appraisal, including Disclosure and Barring Service, Protection of Vulnerable Adult or Independent Safeguarding Authority check, and copies of relevant certification and references.

## **F. INTELLECTUAL PROPERTY AND INFORMATION**

## **22 INTELLECTUAL PROPERTY**



#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 22.1 The Supplier shall ensure and procure that the performance of the Supplier's responsibilities and obligations under this Contract shall not infringe any Intellectual Property Rights of any third party.
- 22.2 All Intellectual Property Rights in any specifications, instructions, plans, data, drawings, databases, patents, patterns, models, designs or other material:
  - 22.2.1 provided to the Supplier by the Council shall remain the property of the Council;
  - 22.2.2 prepared by or for the Supplier specifically for the use, or intended use, in relation to the performance of this Contract shall belong to the Council subject to any exceptions set out in the Contract.
- 22.3 The Council shall be entitled to use, modify, arrange and copy all property, copyright and all other intellectual property rights ("the Intellectual Property") including but without limitation the database rights in any database, in all Materials developed, originated, written or prepared by the Supplier (whether individually or jointly with the Council) for the purposes of this Contract. Such Intellectual Property the Supplier by virtue of this Contract shall assign to the Council with full title guarantee.
- 22.4 The Supplier agrees to promptly notify the Council in writing of any breach or claim of breach of any intellectual property in use for the purposes of this Contract and shall indemnify and keep indemnified the Council against any and all claims, liability, loss, damages, costs and expenses which the Council may incur or suffer as a result of a breach by the Supplier of the warranties set out in this clause.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **23 CONFIDENTIALITY**

- 23.1 The Supplier and the Council shall keep confidential and safeguard all Confidential Information shared between them obtained under or in connection with this Contract and shall not divulge the same to any third party without the written consent of the Party in whom the ownership of the Confidential Information is vested.
- 23.2 The provisions of this clause 23 shall not apply to the extent that:
- 23.2.1 such information was already in the public domain otherwise than by breach of this Contract;
  - 23.2.2 such information was obtained from a third party who is free to divulge the same;
  - 23.2.3 such information was personally developed without access to the other party's Confidential Information;
  - 23.2.4 such disclosure is a requirement of Law, placed upon the Party making the disclosure.
- 23.3 The Parties shall divulge Confidential Information only to those persons who are directly involved in providing the Goods and/or Services under this Contract and who need to know the information, and shall ensure that such persons are aware of and comply with these obligations as to confidentiality.
- 23.4 The Supplier will ensure that it maintains the integrity and confidentiality of all personal information held in respect of any past or present Service Users but will disclose such information to the Council on request for the purpose of monitoring, evaluation, audit, inspection, crime prevention and prosecution, or the exercise of the Council's Safeguarding functions. Such information shall be disclosed to the Council within one (1) Working Day of receipt of the Council's request.
- 23.5 The Supplier shall immediately notify the Council if it suspects or becomes aware of any unauthorised access, copying, use or disclosure in any form of any of the Council's Confidential Information.
- 23.6 The provisions of this clause 23 shall continue in perpetuity.

### **24 DATA PROTECTION**

- 24.1 The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Controller and the Supplier is the Processor. The only processing that the Supplier is authorised to do is listed in Schedule 5 by the Council and may not be determined by the Supplier.
- 24.2 The Supplier shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

24.3 The Supplier shall provide all reasonable assistance to the Council in the preparation of any Data Protection Impact Assessment prior to commencing any processing. Such assistance may, at the discretion of the Council, include:

24.3.1 a systematic description of the envisaged processing operations and the purpose of the processing;

24.3.2 an assessment of the necessity and proportionality of the processing operations in relation to the Services;

24.3.3 an assessment of the risks to the rights and freedoms of Data Subjects; and

24.3.4 the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data.

24.4 The Supplier shall, in relation to any Personal Data processed in connection with its obligations under this Contract:

24.4.1 process that Personal Data only in accordance with Schedule 5, unless the Supplier is required to do otherwise by Law. If it is so required the Supplier shall promptly notify the Council before processing the Personal Data unless prohibited by Law;

24.4.2 ensure that it has in place Protective Measures, which have been reviewed and approved by the Council as appropriate to protect against a Data Loss Event having taken account of the:

24.4.2.1 nature of the data to be protected;

24.4.2.2 harm that might result from a Data Loss Event;

24.4.2.3 state of technological development; and

24.4.2.4 cost of implementing any measures;

24.4.3 ensure that :

24.4.3.1 the Supplier Employees do not process Personal Data except in accordance with this Contract (and in particular Schedule 5);

24.4.3.2 it takes all reasonable steps to ensure the reliability and integrity of any Supplier Employees who have access to the Personal Data and ensure that they:

(i) are aware of and comply with the Supplier's duties under this clause;

(ii) are subject to appropriate confidentiality undertakings with the Supplier or any Sub-processor;

(iii) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this Contract; and

(iv) have undergone adequate training in the use, care, protection and handling of Personal Data; and

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

24.4.4 not transfer Personal Data outside of the EEA unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:

- 24.4.4.1 the Council or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with GDPR Article 46 or LED Article 37) as determined by the Council;
- 24.4.4.2 the Data Subject has enforceable rights and effective legal remedies;
- 24.4.4.3 the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred (or, if it is not so bound, uses its best endeavours to assist the Council in meeting its obligations); and
- 24.4.4.4 the Supplier complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;

24.4.5 at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination or expiry of the Contract or at anytime on receipt of a written request by the Council, unless the Supplier is required by Law to retain the Personal Data.

24.5 Subject to clause 24.6, the Supplier shall notify the Council immediately if it:

24.5.1 receives a Data Subject Access Request (or purported Data Subject Access Request);

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

24.5.3 receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;

24.5.4 receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Contract;

24.5.5 receives a request from any third Party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or

24.5.6 becomes aware of a Data Loss Event.

24.6 The Supplier's obligation to notify under clause 24.5 shall include the provision of further information to the Council in phases, as details become available.

24.7 Taking into account the nature of the processing, the Supplier shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 24.5 (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 24.7.1 the Council with full details and copies of the complaint, communication or request;
  - 24.7.2 such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
  - 24.7.3 the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
  - 24.7.4 assistance as requested by the Council following any Data Loss Event;
  - 24.7.5 assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.
- 24.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless:
- 24.8.1 the Council determines that the processing is not occasional;
  - 24.8.2 the Council determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
  - 24.8.3 the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 24.9 The Supplier shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.
- 24.10 The Supplier shall designate a data protection officer if required by the Data Protection Legislation.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 24.11 Before allowing any Sub-processor to process any Personal Data related to this Contract, the Supplier must:
- 24.11.1 notify the Council in writing of the intended Sub-processor and processing;
  - 24.11.2 obtain the written consent of the Council;
  - 24.11.3 enter into a written Contract with the Sub-processor which give effect to the terms set out in this clause 24 such that they apply to the Sub-processor; and
  - 24.11.4 provide the Council with such information regarding the Sub-processor as the Council may reasonably require.
- 24.12 The Supplier shall remain fully liable for all acts or omissions of any Sub-processor.
- 24.13 The Council may, at any time on not less than thirty (30) Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this Contract).
- 24.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may on not less than thirty (30) Working Days' notice to the Supplier amend this Contract to ensure that it complies with any guidance issued by the Information Commissioner's Office.

## **25 FREEDOM OF INFORMATION**

- 25.1 The Supplier acknowledges that the Council is subject to the requirements of the FOIA and the EIR and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations in a timely manner.
- 25.2 Notwithstanding anything to the contrary contained or implied in any documents or negotiations leading to the formation of this Contract or in this Contract:
- 25.2.1 the Council shall be entitled to publish and/or release any and all terms or conditions of this Contract, the contents of any documents, Schedules and/or information contained in or relating to the formation of this Contract under the provisions of the FOIA, EIR or the Local Government Transparency Code 2014, ("the Code") as it sees fit;
  - 25.2.2 nothing contained in this Contract shall prevent the Council from comply with its Information disclosure obligations under the FOIA or the EIR.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 25.3 The Supplier shall and shall procure that its Sub-contractors shall co-operate with the Council and supply to it all necessary information and documentation required in connection with any request received by the Council under the FOIA or the EIR, in the form that the Council requires, at no additional charge and within five (5) Working Days of receipt of any such request.
- 25.4 The Supplier shall not publish or otherwise disclose any information contained in this Contract or in any negotiations leading to the formation of it without the Council's previous written consent.

## **26 TRANSPARENCY**

- 26.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA and the EIR or has been identified in the Supplier's proposal as Commercially Sensitive Information, the terms or conditions of this Contract, and any Schedules to this Contract, is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any part of the Contract or its Schedules is exempt from disclosure in accordance with the provisions of the FOIA and the EIR.
- 26.2 Subject to Clause 26.1, the Supplier hereby gives its consent for the Council to publish the Contract, including from time to time agreed changes to the Contract, to the general public in whatever form the Council agrees.

## **27 PUBLICITY**

- 27.1 The Supplier will not use any corporate logos of the Council nor refer to the Council or this Contract or the Goods and/or Services, directly or indirectly, in connection with any product, promotion or publication and shall not at any time during the Contract Period or thereafter make any public statement in relation to the Council or its businesses, affairs, Councils or clients, without the prior written permission of the Council.

## **G. LIABILITY, INDEMNITY AND INSURANCE**

### **28 LIABILITY AND INSURANCE**

- 28.1 The Supplier shall effect and maintain insurance necessary to cover any liability arising under this Contract.
- 28.2 The Supplier shall, prior to the Commencement Date and on each anniversary of the Commencement Date and/or upon request, provide copies of all insurance policies referred to in this clause to demonstrate that the appropriate insurance cover is in place, together with receipts or other evidence of payment that all premiums relating to such insurances have been paid in full.
- 28.3 The Supplier shall at all times throughout the Contract Period of this Contract maintain in force such policies of insurance with reputable insurers or underwriters as are sufficient to cover its liability under this Contract.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 28.4 Neither Party excludes or limits liability to the other for death or personal injury caused by its negligence or any such liability which it is not permissible to exclude by Law.
- 28.5 The Supplier shall indemnify and keep indemnified the Council fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of, or in connection with the Contract including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly or indirectly by an act or omission of the Supplier. This clause 29.5 shall not apply to the extent that the Supplier is able to demonstrate that such death or personal injury, or loss or damage was not caused or contributed to by its negligence or Default, or the negligence or Default of its Employees or by any circumstances within its or their control.
- 28.6 The Supplier shall notify the Council as soon as possible and in any event within forty-eight (48) hours of any incident that may lead to any claim, demand or proceedings and shall supply such particulars or details thereof as the Council shall reasonably require.
- 28.7 The Supplier shall fully and promptly indemnify the Council in respect of any damage whatsoever caused by any Employees or Sub-contractor, whether such damage be caused by negligence or in any other way whatsoever to any land, building or chattel in the ownership, occupation or possession of the Council arising out of or in consequence of the performance of the Contract or the performance of the Goods and/or Services.
- 28.8 The provisions of this clause 28 shall survive the termination or expiry of this Contract for whatever reason.

## **29 LIMITATION OF LIABILITY**

- 29.1 Subject to clause 34.1, the Council's total liability arising under, or in connection with, this Contract, whether in tort (including negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, shall be limited as follows:
- 29.1.1 for non-payment of invoices for Goods and/or Services purchased, to the amount unpaid; or
- 29.1.2 for any other type of liability, to the amount paid for the Goods and/or Services under the Contract.
- 29.2 Subject to clause 29.1, the Supplier's total liability arising under, or in connection with, this Contract, whether in tort (including negligence or breach of statutory duty), contract, misrepresentation, restitution or otherwise, shall be limited to **five (5) million** pounds sterling or one hundred and twenty five percent (125%) of the total Price whichever is the greater.
- 29.3 Subject to clause 34.1, neither Party will be liable to the other Party for:



## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 29.3.1 any indirect, special or consequential loss or damage; or
- 29.3.2 any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).
- 29.4 Subject to clause 29.2 the Council may, amongst other things, recover from the Supplier the following direct losses incurred by the Council to the extent that they arise as a result of a Default by the Supplier:
  - 29.4.1 any additional operational and/or administrative costs and expenses, including costs relating to time spent by or on behalf of the Council in dealing with the consequences of the Default;
  - 29.4.2 any wasted expenditure or charges rendered unnecessary;
  - 29.4.3 the additional cost of procuring replacement Goods and/or Services for the remainder of the Contract Period;
  - 29.4.4 any anticipated savings; and
  - 29.4.5 any fine, penalty or costs incurred by the Council pursuant to Law.
- 29.5 Subject to this clause each Party shall use all reasonable endeavours to mitigate any loss or damage suffered arising out of or in connection with this Contract.

## **H. REMEDIES**

### **30 COUNCIL REMEDIES FOR DEFAULT**

- 30.1 Without prejudice to any other right or remedy of the Council howsoever arising, if any of the Goods and/or Services supplied are not in accordance with the Contract, the Council shall be entitled to:
  - 30.1.1 at the Council's option, give the Supplier the opportunity (at the Supplier's expense) to remedy the Default together with any damage resulting from such Default (where such Default is capable of remedy) or to supply replacement Goods and/or Services and carry out any other necessary work to ensure that the terms of this Contract are fulfilled, in accordance with the Council's instructions;
  - 30.1.2 carry out, at the Supplier's expense, any work necessary to make the provision of the Goods and/or Services comply with this Contract; or
  - 30.1.3 subject to clause 28 (Liability and Insurance) require repayment of the proportion of the Price which has been paid in respect of such Goods and/or Services together with payment of any additional expenditure over and above the Price reasonably incurred by the Council in obtaining replacement Goods and/or Services.

### **31 DISPUTE RESOLUTION PROCEDURE**

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 31.1 If a dispute arises between the Council and the Supplier out of or in connection with the Contract, the Parties shall each use reasonable endeavours to resolve such dispute by means of prompt discussion at an appropriate managerial level within ten (10) Working Days of written notice of the dispute being served by one Party on the other without recourse to legal proceedings.
- 31.2 If a dispute is not resolved within ten (10) Working Days of referral under clause 31.1 then either Party may escalate it to senior representatives of each Party for resolution who shall meet for discussion within ten (10) Working or longer period as the Parties may agree.
- 31.3 Provided that both Parties consent, a dispute not resolved in accordance with clauses 31.1 and 31.2, shall first be referred to mediation or other alternative dispute resolution procedure as agreed between the Parties, each acting in good faith. If the Parties are unable to agree a procedure or any aspect of a procedure they will seek assistance from the Centre of Dispute Resolution at Exchange Tower, 1 Harbour Exchange Square, London, E14 9GB. Unless otherwise agreed, the Parties will share equally the costs of mediation.

## **32 CUMULATIVE REMEDIES**

- 32.1 Unless otherwise provided in this Contract, all rights and remedies under this Contract are cumulative and do not exclude any rights or remedies provided by Law, in equity or otherwise.

## **I. TERMINATION AND EXIT MANAGEMENT**

## **33 BREAK CLAUSE**

- 33.1 By mutual agreement either the Council or the Supplier may terminate the whole or any part of this Contract by giving the other Party thirty (30) Working Days notice in writing indicating its intention to do so.

## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

### 34 TERMINATION

- 34.1 The Council shall be entitled to terminate this Contract and the Supplier's engagement without any payment in lieu of notice, compensation or damages forthwith upon the Council becoming aware of the following:
- 34.1.1 if the Supplier shall be in material or persistent breach of non-observance of any of the provisions in this Contract or shall wilfully neglect or refuse to comply with any reasonable and lawful directions of the Council and/or carry out any of its obligations under this Contract; or
  - 34.1.2 if the Supplier or anyone providing Goods and/or Services on behalf of the Supplier shall act in any way which may, in the reasonable opinion of the Council, bring the Council into disrepute.
- 34.2 The Council may require the Supplier to terminate a Sub-contract where the acts or omissions of the relevant Sub-contractor have caused or materially contributed to the Council's right of termination pursuant any of the termination events in clause 34.1.
- 34.3 The Council may forthwith terminate this Contract and recover from the Supplier any amount the Council has lost in terminating the same, if the Supplier or anyone acting on its behalf (whether with or without the knowledge of the Supplier) shall have:
- 34.3.1 offered or given or agreed to give any person any gift or consideration of any kind as an inducement or reward in respect of this Contract or any other Contract for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Contract or any other Contract with the Council;
  - 34.3.2 shown or forborne to show any favour or disfavour to any person in relation to the Contract or any other Contract with the Council;
  - 34.3.3 committed an offence under the Prevention of Corruption Acts 1889 to 1916, or the Bribery Act 2010; or
  - 34.3.4 given any fee or reward to an officer of the Council which is an offence under section 117(2) of the Local Government Act 1972.
- 34.4 The Council may terminate the Contract by notice in writing with immediate effect with no liability to make any further payment to the Supplier (other than in respect of amounts accrued in accordance with clause 35.1) where the Supplier:
- 34.4.1 undergoes a change of control (within the meaning of section 450 and section 1124 of the Corporation Taxes Act 2010), which impacts adversely and materially on the performance of the Contract; or
  - 34.4.2 becomes insolvent, bankrupt, enters into liquidation, enters into a voluntary arrangement; or

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 34.4.3 appoints a receiver or such similar event in any jurisdiction save for the purposes of a solvent reconstruction or amalgamation; or
  - 34.4.4 is in circumstances which entitle the Court or a creditor to appoint a receiver, manager or administrator save for the purposes of a solvent reconstruction or amalgamation; or
  - 34.4.5 has an administrator appointed for it on behalf of a creditor; or
  - 34.4.6 is subject to an application for the appointment of an administrator; or
  - 34.4.7 is subject to a notice to appoint an administrator; or
  - 34.4.8 is guilty of any fraud or dishonesty or acts in any manner which in the opinion of the Council brings or is likely to bring the Supplier or the Council into disrepute or is materially adverse to the interests of the Council; or
  - 34.4.9 suffers or allows any execution, whether legal or equitable, to be levied on its property or obtained against it, or is unable to pay its debts (within the meaning of section 123 of the Insolvency Act 1986) or the Supplier ceases to trade; or
  - 34.4.10 is unable to agree to or provide a Variation in accordance with clause 47; or
  - 34.4.11 fails to comply in the performance of this Contract with its legal obligations in the fields of environmental, social or labour law or the Modern Slavery Act 2015.
- 34.5 The Council may serve a Termination Notice on the Supplier were:
- 34.5.1 there has been a change of circumstances that has substantially modified the Contract within the meaning of Regulation 73 of the Public Contract Regulations 2015 and as a result the Council is required to initiate a new procurement procedure;
  - 34.5.2 the Supplier, including any person employed by the Supplier in an administrative, management or supervisory role and including any person who has powers of representation, decision making or control within the Supplier, becomes the subject of a conviction for one of the reasons set out in Regulation 57(1) of the Public Contract Regulations 2015;
  - 34.5.3 the Contract is declared ineffective by a review body in accordance with Regulation 98(2) of the Public Contract Regulations 2015.
- 34.6 Either Party may terminate the Contract by written notice to the other Party with immediate effect if that other Party commits a Default and:

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

34.6.1 the Default is not remedied within thirty (30) Working Days, or such other period as may be agreed between the Parties, after issue of a written notice specifying the Default and requesting it to be remedied; or

34.6.2 the Default is not capable of remedy; or

34.6.3 the Default is a material breach of the Contract.

34.7 The Council reserves the right to terminate the Contract at will (in whole or in part) at any time with or without notice (except that it will give as much notice as possible in the circumstances) if the Supplier shall commit a material or persistent breach of this Contract.

34.8 The proper exercise by the Council of its right of termination under this clause 34 shall be without prejudice to any other rights or remedies which the Council may have or be entitled to exercise against the Supplier.

## **35 TUPE**

35.1 During the twelve (12) months prior to the Expiry Date or after the Council has given notice to terminate this Contract and within xx (7) Calendar Days of being so requested to do so, the Service Provider shall fully and accurately disclose to the Council any and all information in relation to all persons engaged in providing the Service including:

35.1.1 a list in electronic format of each employee employed by the Service Provider in the provision of the Service including each employee's start date;

35.1.2 a list of agency workers, agents and independent service providers engaged by the Service Provider in the provision of the Service;

35.1.3 the total payroll bill (i.e. total taxable pay and allowances including employer's contributions to pension schemes) of each employee included in the list to be provided under Clause 35.1.1; and

35.1.4 the terms and conditions of employment of each Transferring Employee; their age and identity; the information that must be included in the employee's written statement of employment particulars under s.1 of the Employment Rights Act 1996; information on any disciplinary procedure taken in relation to the employee or grievance procedure taken by the employee within the previous two (2) years in relation to which the ACAS code of practice on disciplinary and grievance procedures applies; information on any Court or tribunal claim brought by the employee against the transferor within the previous two (2) years and any potential claim against the transferee arising out of the employee's employment with the transferor; information about any collective agreements that will have effect after the transfer in relation to the Transferring Employee.

35.2 During the twelve (12) months prior to Expiry Date or where notice to terminate this Contract for whatever reason has been given, the Service Provider shall not

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

without the prior written consent of the Council unless bona fide in the ordinary course of business:

- 35.2.1 vary or purport or promise to vary the terms and conditions of employment of any employee employed in connection with the Service;
- 35.2.2 materially increase or decrease the number of employees employed in connection with the Service;
- 35.2.3 increase the remuneration of employees;
- 35.2.4 assign or re-deploy any employee employed in connection with the Service to other duties unconnected with the Service; or
- 35.2.5 otherwise improve terms and conditions of employment of any of its employees without economic justification towards the Expiry Date with a view to discouraging other potential bidders.

#### **36 CONSEQUENCES OF TERMINATION OR EXPIRY**

- 36.1 On termination of the Contract pursuant to clauses 33 or 34.4, 34.5, 34.6 or 39.5 or 54.1 the Council shall:
  - 36.1.1 pay to the Supplier sums due and reasonably incurred up to the date of termination where the Council has received Goods and/or Services to the equivalent value;
  - 36.1.2 pay to the Supplier sums due for expenditure incurred after the date of termination only in so far as it is a result of commitments entered into by the Supplier in good faith before the date on which notice of termination was given and which cannot be voided on or before the termination date. The Supplier shall submit a fully itemised and costed list of such loss, with supporting evidence of losses reasonably and actually incurred by the Supplier as a result of termination within five (5) Working Days of receiving the notice of termination provided that any such sum payable in accordance with this clause 35.1 shall only be payable by the Council if it would have been payable in accordance with this Contract if it had not been terminated.
- 36.2 The Council shall not be liable under clause 36.1.2 to pay any sum which was claimable under insurance held by the Supplier, or when added to any sum paid or due to the Supplier under the Contract, exceeds the total sum that would have been payable to the Supplier if the Contract had not been terminated prior to the expiry of the Contract Period.
- 36.3 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.

## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

### 37 EXIT MANAGEMENT

- 37.1 The Supplier shall assist and co-operate fully with the Council in managing the smooth and timely transition of the Contract on termination (in whole or in part, howsoever arising) or expiry of this Contract, by providing all necessary reasonable resources and information for ending the Contract and/or for transferring the Goods and/or Services to the Council or its Replacement Supplier.
- 37.2 Within **XX (XX)** Working Days of being so requested by the Council, the Provider shall provide and thereafter keep updated, in a fully indexed and catalogued format, all the information necessary to enable the Council to issue invitations to tender for the future provision of the Services and it shall be the Provider's responsibility to get all consents or permits necessary to pass that information to the Council.
- 37.3 Where, in the opinion of the Council, the TUPE Regulations are likely to apply on the termination or expiration of this Contract, the information to be provided by the Provider under clause 37.2 shall include, as applicable, accurate information relating to the employees or personnel under the control of the Provider or any Sub-Contractor of the Provider who would or could be transferred under the TUPE Regulations (the "Employees") and such other relevant information as may be reasonably required for disclosure to third parties intending to submit tenders for any subsequent agreement for the provision of the Services ("the Workforce Information").
- 37.4 The Provider shall not for a period of six (6) months prior to termination or expiry of the Contract make any material changes in the numbers of Employees to be transferred under the TUPE Regulations, their remuneration or other terms and conditions of employment.
- 37.5 The Provider shall advise the Council immediately of any changes to the Workforce Information between the date on which it is provided and the expiry of this Contract and shall ensure that the information disclosed is accurate and up to date and that all known existing liabilities relating to the Employees have been discharged.
- 37.6 The Provider shall indemnify the Council against any claim made against the Council at any time by any person in respect of the liability incurred by the Council arising PHWB – long form global template 11/2017 from any deficiency or inaccuracy in information, which the Provider is required to provide under clause 37.1.
- 37.7 The Provider shall, if required by the Council, provide an undertaking and warranty to any person to whom the Provider's Employees may transfer pursuant to the TUPE Regulations to the effect the Provider has discharged all its obligations as employer in relation to the Employees.
- 37.8 The Provider shall co-operate fully with the Council during the handover arising from the completion or earlier termination of this Contract. This co-operation, during the setting up of operations period of the new Provider, shall extend to

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#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

consultation with the Employees allowing full access to, and providing copies of all documents, reports, summaries and other information necessary in order to achieve an effective transition without disruption to the routine operational requirements.

- 37.9 Within twenty (20) Working Days of being so requested by the Council, the Provider shall transfer to the Council, or any person designated by the Council, free of charge, all computerised filing, recordings, documentation, planning and drawings held on software and utilised in the provision of the Services. The transfer shall be made in a fully indexed and catalogued disk format to operate on a proprietary software package identical to that used by the Council.

#### **J. MISCELLANEOUS**

##### **38 NOTICES**

- 38.1 Any notice required by this Contract to be given by either Party to the other shall be in writing and shall be served personally, by fax, by email or by sending it by registered post or recorded delivery either to Melton Borough Council, Parkside, Station Approach, Melton Mowbray, LE13 1GH or (as the case may be) to the registered office or nominated business address of the Supplier as referred to in Schedule 4 (Representatives of the Parties).
- 38.2 Any notice served personally will be deemed to have been served on the day of delivery; any notice sent by post will be deemed to have been served forty-eight (48) hours after it was posted; any notice sent by fax will be deemed to have been served twenty-four (24) hours after it was despatched and any notice sent by email before 5 p.m. will be deemed to have been served on the day of despatch and otherwise on the following Working Day.

##### **39 PREVENTION OF BRIBERY AND CORRUPTION**

- 39.1 The Supplier:

39.1.1 shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and shall ensure that all Supplier Employees and any Sub-contractor, in connection with this Contract, shall comply with all applicable laws, statutes, regulations and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;

39.1.2 warrants, represents and undertakes that to the best of its knowledge it is not aware of any financial or other advantage of any kind being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution and/or performance of this Contract, excluding any arrangement of which full details have been disclosed in writing to the Council before the execution of this Contract.

- 39.2 The Supplier shall have, maintain and where appropriate enforce an anti-bribery policy (which shall be disclosed to the Council on request) to prevent any Supplier Employees or Sub-contractor from committing a Prohibited.



## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

39.3 The Supplier shall take all reasonable steps, in accordance with Good Industry Practice, to prevent a Prohibited Act by the Supplier Employees or Sub-contractor.

39.4 Any anti-bribery policy put in place by the Supplier shall in addition include the Supplier's Prevention of Fraud policy, which shall incorporate the Council's Counter Fraud Prevention Strategy. The Council's Fraud Policy / Strategy can be provided upon request.

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39.5 The Council may terminate this Contract by written notice with immediate effect if the Supplier, Supplier Employees or Sub-contractor (in all cases whether or not acting with the Supplier's knowledge) breaches clause 38. In determining whether to exercise the right of termination under this clause 38.5, the Council shall give all due consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Supplier or a senior officer of the Supplier or by an Employee, Sub-contractor or supplier not acting independently of the Supplier. The expression "not acting independently of" (when used in relation to the Supplier or a Sub-contractor) means and shall be construed as acting:

39.5.1 with the authority; or,

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

39.6 Any termination under clause 39.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

## 40 INDUCEMENTS

40.1 The Supplier shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Council any gift or consideration of any kind as an inducement or reward for doing any act in relation to the obtaining or execution of the Contract or any other contract with the Council, or for showing or refraining from showing favour or disfavour to any person in relation to the Contract or any such contract. The attention of the Supplier is drawn to the criminal offences under the Bribery Act 2010.

40.2 The Supplier warrants that it has not paid commission, nor agreed to pay any commission, to any employee or representative of the Council by the Supplier or on the Supplier's behalf.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **41 CONFLICTS OF INTEREST**

- 41.1 The Supplier shall take appropriate steps to ensure that neither the Supplier nor any Employee, agent, Supplier or Sub-contractor is placed in a position where (in the reasonable opinion of the Council), there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Supplier or such person and the duties owed to the Council under the provisions of this Contract.
- 41.2 The Supplier shall promptly notify the Council and disclose full particulars of any such conflict of interest which may arise.

### **42 COUNCIL'S POLICIES**

- 42.1 The Supplier shall adopt Policies and such policies shall comply with the Council's own policies with regard to, for example, equality and diversity, environmental, health & safety, whistleblowing. Copies of such Council policies shall be made available to the Supplier on request in a timely manner.

### **43 EQUALITY AND DIVERSITY**

- 43.1 The Supplier shall comply with its statutory obligations under the Equality Act 2010, and accordingly will not treat one group of people less favourably than others because of their protected characteristic which includes age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation or claims for equal pay in relation to decisions to recruit, train or promote Employees or in the services it provides.

### **44 ENVIRONMENTAL**

- 44.1 The Supplier shall work with the Council in so far as necessary to improve the effects of the Goods and/or Services, and their supply, on the environment and shall consider environmental efficiency as part of its operational planning process throughout the Contract Period.

### **45 HEALTH AND SAFETY**

- 45.1 The Supplier and all persons engaged in the performance of this Contract shall comply fully with the requirements of the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations, all health and safety policies of the Council and any other Laws relating to the health and safety of Employees and others who may be affected by the Supplier's work activities.
- 45.2 While on the Council's Premises, the Supplier shall comply with any health and safety measures implemented by the Council in respect of Employees and other persons working on the Premises.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **46 EQUIPMENT**

- 46.1 Unless otherwise stated in the Contract, the Supplier shall provide and maintain at its own cost all the Equipment necessary for the supply of the Goods and/or Services or its obligations under this Contract and such Equipment shall not be delivered without the Council's prior Approval. Equipment brought onto the Premises will remain the property of the Supplier at all times.

### **47 TRANSFER, SUB-CONTRACTING AND RESPONSIBILITY**

- 47.1 Neither the Council nor the Supplier shall assign, novate or sub-contract or in any other way dispose of this Contract or any part thereof without the prior written consent of the other Party. Sub-contracting any part of the Contract shall not relieve the Supplier of any obligation or duty attributable to the Supplier under the Contract.
- 47.2 The Supplier shall remain responsible and liable for the acts and omissions of any other members of a consortium arrangement, Sub-contractors, servants, agents and Employees as though they were its own.
- 47.3 In the event the Supplier engages a Sub-contractor for the purpose of providing the Goods and/or Services, (in whole or in part), the Supplier shall include a requirement within every Sub-contract to provide for the following:
- 47.3.1 payment will be made of all sums due by the Supplier to the Sub-contractor no later than thirty (30) Calendar Days following the date of receipt and agreement of a valid and undisputed invoice;
  - 47.3.2 a requirement that the Sub-contract includes substantially the same provisions as those contained in this Contract, including an obligation to comply with the Modern Slavery Act 2015; and
  - 47.3.3 a right for the Supplier to terminate the Sub-contract if the relevant Sub-contractor fails to comply in the performance of its contract with legal obligations in the fields of environmental, social or labour law.
- 47.4 If the Council agrees that the Supplier may Sub-contract its obligations under this Contract, the Supplier shall ensure that it has the ability to audit its Sub-contracts to ensure compliance with the provisions of the Sub-contract.
- 47.5 If the Council assigns, novates, transfers, charges, mortgages, Sub-contracts, delegates or deals in any other manner with all or any of its rights under the Contract the Supplier shall continue to provide the Goods and/or Services as agreed under this Contract, at no additional cost in so far as no additional obligations are placed upon the Supplier in performing the Goods and/or Services.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **48 CONTRACT VARIATION / MODIFICATION**

- 48.1 Subject to the provisions of this clause 47 either Party may request a variation to this Contract provided that such variation does not amount to a material change of this Contract within the meaning of the Regulations and the Law. Such a change once implemented is hereinafter called a "Variation".
- 48.2 The Council reserves the right to modify the terms of the Contract in relation to an increase or decrease in volume or values for the requirement. Any modification(s) will not alter the scope of this contract, or constitute a material change.
- 48.3 Without prejudice to the rights and powers of the Authorised Officer under this Contract comprising the Contract Documents, no deletion from, addition to or variation of the Conditions shall be valid or of any effect unless agreed in writing and signed on behalf of the Council by the Authorised Officer (or by such other officer as the Authorised Officer may in writing appoint) and on behalf of the Supplier by a duly authorised representative of the Supplier.
- 48.4 The Authorised Officer shall be entitled at any time to issue to the Supplier instructions in writing in relation to a Modification (a "Modification Notice") and the Supplier shall confirm in writing to the Council whether it agrees or does not agree to the Modification within ten (10) Working Days of receipt of the Modification Notice.
- 48.5 The Modification Notice shall specify:
- 48.5.1 the detail of the Modification; and
  - 48.5.2 the date on which such Modification is to have effect; and
  - 48.5.3 the time period during which the Modification shall have effect if it is of a temporary nature.
- 48.6 If the Parties agree the Variation, the Supplier shall implement such Variation and be bound by the same provisions so far as is applicable, as though such Variation was stated in this Contract.
- 48.7 Where part of the Services is omitted from, or ceases to be provided or is varied under the Contract, the Council shall not be liable to the Supplier in respect of any loss or reduced contribution to overheads or profit, whether in respect of this Contract or any lost opportunity to earn overhead contribution or profit elsewhere

### **49 GOVERNING LAW AND JURISDICTION**

- 49.1 This Contract shall be governed by and interpreted in accordance with the laws of England and shall be subject to the exclusive jurisdiction of the English courts.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **50 CHANGE IN LAW**

- 50.1 The Supplier shall comply at all times with the Law in its performance of this Contract and shall neither be relieved of its obligations to provide the Goods and/or Services in accordance with the terms of this Contract nor be entitled to an increase in the Price and/or any charges payable by the Supplier as the result of a General change in law or Specific Change in Law where the effect of that Specific Change in Law on the Goods and/or Services is reasonably foreseeable at the Commencement date.
- 50.2 If a Specific Change in Law occurs or will occur during the Contract Period the Supplier shall notify the Council of the likely effects of that change, including whether any Variation is required to the provision of the Goods and/or Services, the Price or the Contract.
- 50.3 Any Variation agreed by the Parties pursuant to clause 50.2 shall be implemented in accordance with clause 48 (Contract Variation).

### **51 THIRD PARTY RIGHTS**

- 51.1 Nothing in this Contract shall create any rights for third parties under the Contracts (Rights of Third Parties) Act 1999 (the "Act"). No Variation of this Contract and no supplemental or ancillary agreement to this Contract shall create any such rights unless expressly so stated in any such agreement by the Parties. This does not affect any right or remedy of a third party which exists or is available from the Act.

### **52 NO WAIVER**

- 52.1 Failure by either Party at any time to enforce any one or more of the provisions of this Contract or to require strict performance by the other Party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this Contract nor affect the validity of the Contract or any part of it or the right of the Parties to enforce any provision in accordance with its terms.

### **53 SEVERANCE**

- 53.1 If any provision (or part of any provision) of the Contract shall become or shall be declared by any court of competent jurisdiction to be invalid, illegal or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect as if the Contract had been executed with the invalid, illegal or unenforceable provision eliminated.

### **54 FORCE MAJEURE**

- 54.1 Neither Party shall be liable to the other Party for any delay in performing, or failure to perform, its obligations under the Contract if such delay or failure results from Force Majeure. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Contract for the duration of such Force Majeure. If a Party is unable to perform its material obligations under the Contract as a result of a Force Majeure event

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

for a period of more than three (3) months (commencing on the date of the Force Majeure notices served by the Party seeking to claim relief), the other Party may terminate the Contract by notice in writing to the other Party with immediate effect or on a set termination date.

- 54.2 Industrial action by, or illness or shortage of the Employees, agents or Sub-contractors, failure or delay by any of the Supplier's suppliers to supply Goods, Services, components, or materials and breach of the Supplier's warranties under clause 3 shall not be regarded as an event of Force Majeure.
- 54.3 The Supplier will not have the right to any payment from the Council under this Contract where the Supplier is unable to provide the Good and/or Services or otherwise perform its obligations under the Contract because of an event of Force Majeure.

#### **K. SAFEGUARDING**

##### **55 SAFEGUARDING**

- 55.1 The Supplier will comply with all requirements of the Children and Families Act 2014 to adequately assess and safeguard children and young people who are at significant risk and refer all such cases appropriately and in accordance with local protocols.
- 55.2 The Supplier will comply with all requirements of the Care Act 2014 and herein acknowledges its duty to safeguard vulnerable adults from abuse and its responsibility to act on actual or suspected cases of abuse appropriately, including referral and in accordance with local protocols.
- 55.3 The Supplier will comply with all requirements of the Mental Health Act 2007 and the Mental Capacity Act 2005 and in particular ensure that it abides by the requirements of the Deprivation of Liberties Safeguards.
- 55.4 The Supplier must comply at all times with the Local Safeguarding Adults Board multi-agency policies and procedures for protecting vulnerable adults from abuse and when called upon to do so, demonstrate how this is being done. These policies and procedures (as amended from time to time) can be made available upon request.
- 55.5 These relate to the management of suspicions or allegations of abuse of vulnerable adults, aged eighteen (18) years and over.
- 55.6 The Supplier must comply at all times with the Local Safeguarding Children Board policies and procedures for protecting children from abuse and when called upon to do so, demonstrate how this is being done. These policies and procedures (as amended from time to time) can be made available upon request.
- 55.7 The policy and procedures are about managing suspicions or allegations of abuse to children until they reach the age of eighteen (18) years.

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

55.8 The Supplier further acknowledges that the Safeguarding policies and procedures referred to in clause 55.4 and clause 55.6 are liable to amendment in response to statutory and policy changes and hereby consents to the Council making such amendments at its sole discretion without further consultation with or agreement by the Supplier.

55.9 At the reasonable written request of the Council and within agreed timescales the Supplier must provide evidence to the Council that it is addressing any safeguarding concerns in accordance with Safeguarding policies and procedures.

#### **56 COMPLAINTS AND SERIOUS UNTOWARD INCIDENTS (where relevant)** [Guidance Note: delete clause 56 if not relevant and type “NOT USED”]

56.1 The Supplier will agree with the Council the approach to managing and responding to complaints and serious incidents which will include ensuring appropriate alignment and integration with the Council’s policies and procedures related to complaints and serious untoward incidents. All complaints and incidents must be logged, recorded and documents made available to the Council immediately on request and in respects of serious untoward incidents these must be reported to the Council within one (1) Working Day.

56.2 All deaths known to the Service must be logged, recorded and documents made available to the Council immediately on request. These must be reported to the Council within one (1) Working Day of the Service becoming aware of the death. This is regardless of whether the death occurred in Service, or was in any way related or otherwise to the service received.

56.3 The Supplier shall co-operate fully with the Council and shall permit a suitably authorised Officer of the Council to enter without prior notice at any time any Premises of the Supplier that are utilised in whole or part for the delivery of the Services, to investigate any complaint or incident involving the delivery of the Services, regardless of whether a Services User is funded by the Council, another public authority or is self-funded.

56.4 Any Safeguarding investigation undertaken relating to a serious untoward incident or to the death of a Service User must be shared with the Council, together with shared learning to promote an open and supportive approach to learning from experience.

56.5 The Supplier shall bear the cost of or costs arising from complying with this clause 56.

56.6 The Supplier agrees to indemnify the Council against all claims, actions, damages, legal costs, proceedings, expenses and any other liabilities whatever arising that the Council incurs as a result of the Supplier’s failure to comply with this clause 56.

**SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

**IN WITNESS** of which a duly authorised Representative of the Council and the Supplier have executed this Contract on the day and year first above written

SIGNED for and on behalf of

**MELTON BOROUGH COUNCIL**

By its Authorised Signatory

Signed

Print Name

Title

Date

SIGNED for and on behalf of

[Insert **SUPPLIER'S NAME**]

BY its Authorised Signatory

Signed

Print Name

Title

Date



**SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

**MELTON BOROUGH COUNCIL - CONTRACT SCHEDULES**

**SCHEDULE 1: THE GOODS SPECIFICATION**

[REDACTED]

[Guidance Note: where relevant - insert details of the Goods to be provided by the Supplier]

**SCHEDULE 1: THE SERVICES SPECIFICATION**

[REDACTED]

[Guidance Note: where relevant - insert details of the Services to be provided by the Supplier]

**SCHEDULE 1: ANNEX 1: ORDER FORM (SHORT FORM T&Cs)**

[REDACTED]

[Guidance Note: Prior to the commencement of this Contract, insert here the completed Order Form]

## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

### SCHEDULE 2: CONTRACT PRICE, PAYMENT AND INSURANCE

#### 1. DEFINITIONS

1.1 In this Schedule, the following definitions shall apply:

"CPI"	means the <b>Consumer Prices Index</b> as published by the Office of National Statistics. [Guidance Note: if Indexation is not linked to the 'CPI', amend this definition accordingly and specify the Index being used]
"Indexation"	means the adjustment of an amount or sum in accordance with paragraph 8 of this Schedule;
"Indexation Adjustment Date"	the relevant adjustment by way of indexation shall apply on the anniversary of the Commencement Date.

[Guidance Note: delete paragraph 1 'Definitions' and type "**NOT USED**" - if the Contract Price is not linked to Indexation].

#### 2. GENERAL PROVISIONS

2.1 This Schedule details:

- 2.1.1 the Price for the Goods and/or the Services under this Contract;
- 2.1.2 the payment terms for the Price;
- 2.1.3 the invoicing procedure; and
- 2.1.4 the procedure applicable to any adjustments of the Price.
- 2.1.5 the insurance necessary to cover any liability arising under this Contract.

#### 3. CONTRACT PRICE

3.1 The Price which is applicable to this Contract is set out in Annex 1 of this Schedule.

#### 4. COSTS AND EXPENSES

4.1 The Price include all costs and expenses relating to the provision of Goods and/or Services and/or the Supplier's performance of its obligations under this Contract and no further amounts shall be payable by the Council to the Supplier in respect of such performance, including in respect of matters such as:

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 4.1.1 any incidental expenses that the Supplier incurs, including travel, subsistence and lodging, document or report reproduction, shipping, desktop or office equipment costs required by the Supplier Employees, network or data interchange costs or other telecommunications charges; or
- 4.1.2 any amount for any services provided or costs incurred by the Supplier prior to the Commencement Date.

#### **5. PAYMENT TERMS**

- 5.1 The payment terms which are applicable to this Contract are set out in Annex 2 of this Schedule.

#### **6. INVOICING PROCEDURE**

- 6.1 The Council shall pay all sums properly due and payable to the Supplier in cleared funds within thirty (30) Calendar Days of receipt and agreement of a Valid and undisputed Invoice, submitted to the address specified by the Council in paragraph 6.4 of this Schedule and in accordance with the provisions of this Contract.
- 6.2 The Supplier shall ensure that each invoice (whether submitted electronically or in a paper form, as the Council may specify):
  - 6.2.1 contains:
    - (a) all appropriate references, including the unique Order reference number; and
    - (b) a detailed breakdown of the delivered Goods and/or Services, against the applicable due and payable Price;
  - 6.2.2 shows separately the VAT added to the amount due and payable; and
  - 6.2.3 is supported by any relevant documentation reasonably required by the Council to substantiate that the invoice is a Valid Invoice.
- 6.3 All payments due by one Party to the other shall be made within thirty (30) days of receipt and agreement of a Valid and undisputed Invoice unless otherwise specified in this Contract, in cleared funds, to such bank or building society account as the recipient Party may from time to time direct.
- 6.4 The Supplier shall submit invoices either in:
  - 6.4.1 electronic format to [creditors@melton.gov.uk](mailto:creditors@melton.gov.uk); or
  - 6.4.2 paper format to:- 'Creditors, Melton Borough Council, Parkside, Station Approach, Melton Mowbray, LE13 1GH'

**SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**  
**7. ADJUSTMENT OF CONTRACT PRICE**

7.1 The Price shall only be varied:

7.1.1 due to a Specific Change in Law in relation to which the Parties agree that a change is required to all or part of the Price in accordance with clause 49 (Change in Law); or

7.1.2 where the Price is expressed in this Schedule as "subject to increase by way of Indexation", in accordance with the provisions in paragraph 8 of this Schedule.

7.2 Subject to paragraphs 7.1.1 or 7.1.2 of this Schedule or clause 14.9 or 47 of the Agreement, the Price shall not increase during the Contract Period.

**8. INDEXATION**

[Guidance Note: delete paragraph 8 'Indexation' and type "**NOT USED**" - if the Contract Price is not linked to Indexation].

8.1 Where the Price in this Schedule is "subject to increase by way of Indexation" the following provisions shall apply:

8.1.1 the relevant adjustment shall:

- (a) be applied on the effective date of the increase in the relevant Price by way of Indexation ("**Indexation Adjustment Date**") which shall be subject to paragraph 8.1.2 of this Schedule;
- (b) be determined by multiplying the relevant amount or sum by the percentage increase or changes in the Consumer Price Index published for the twelve (12) Months ended on the 31<sup>st</sup> of January immediately preceding the relevant Indexation Adjustment Date;
- (c) where the published CPI figure at the relevant Indexation Adjustment Date is stated to be a provisional figure or is subsequently amended, that figure shall apply as ultimately confirmed or amended unless the Council and the Supplier shall agree otherwise;
- (d) if the CPI is no longer published, the Council and the Supplier shall agree a fair and reasonable adjustment to that index or, if appropriate, shall agree a revised formula that in either event will have substantially the same effect as that specified in this Schedule.

8.1.2 The earliest **Indexation Adjustment Date** will be the first (1<sup>st</sup>) Working Day following the second (2<sup>nd</sup>) anniversary of the Commencement Date. Thereafter any subsequent increase by way of Indexation shall not occur before the anniversary of the previous Indexation Adjustment Date during the Contract Period;

#### **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

- 8.1.3 Except as set out in this paragraph 8 of this Schedule, neither the Price nor any other costs, expenses, fees or charges shall be adjusted to take account of any inflation, change to exchange rate, change to interest rate or any other factor or element which might otherwise increase the cost to the Supplier or Sub-contractors of the performance of their obligations under this Contract.

#### **9. IMPLEMENTATION OF ADJUSTED CONTRACT PRICE**

- 9.1 Variations in accordance with the provisions of this Schedule to Price (in whole or in part) shall be made by the Council to take effect:

9.1.1 in accordance with clause 49 (Change in Law) where an adjustment to the Price is made in accordance with paragraph 7.1 of this Schedule; or

9.1.2 on the Indexation Adjustment Date where an adjustment to the Price is made in accordance with paragraph 7.1.2 of this Schedule;

and the Parties shall amend the Price shown in Annex 1 to this Schedule to reflect such variations.

#### **SCHEDULE 2: ANNEX 1: CONTRACT PRICE**

[REDACTED]

[Guidance Note: Prior to the commencement of this Contract, insert here the Supplier's quoted Price]

## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

### SCHEDULE 2: ANNEX 2: PAYMENT TERMS

[ ]

[Guidance Note: insert details of the agreed payment terms]

### SCHEDULE 2: ANNEX 3: INSURANCE PROVISION

- 1.1 The Supplier shall effect and maintain the following insurances in relation to the performance of its obligations under this Contract:
- 1.1.1 Employers' Liability insurance with a minimum limit of [xx million] pounds sterling (£xxx) for each individual claim.
  - 1.1.2 Public Liability insurance adequate to cover all risks in the performance of this Contract from time to time with a minimum limit of [xx million] pounds sterling (£xxx) for each individual claim.
  - 1.1.3 Product Liability insurance, which shall, for any one occurrence or series of occurrences arising out of one event, be not less than [xx million] pounds sterling (£xxx).
  - 1.1.4 Professional Indemnity insurance to cover all risks in the performance of this Contract with the minimum limit of indemnity of [xx million] pounds sterling (£xxx) for each individual claim, or such higher limit as required by law from time to time.
- [Guidance - Advice may be sought on the appropriate level of insurance cover required for your Contract by emailing the finance team. Delete any insurance policy not applicable to your Contract].
- 1.2 The Insurances referred to in paragraph 1 shall be maintained with a reputable insurance company or underwriters as are sufficient to cover its liability under this Contract.
- 1.3 The terms of any insurance or the amount of cover shall not relieve the Supplier of any liabilities arising under this Contract.
- 1.4 The Supplier shall give the Council, on request, copies of all insurance policies referred to in paragraph 1 to demonstrate that the appropriate insurance cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
- 1.5 The Supplier shall ensure that nothing is done which would entitle the relevant insurer to cancel, rescind or suspend any insurance or cover, or to treat any insurance, cover or claim as avoided in whole or part.

## **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

### **SCHEDULE 3: PERFORMANCE MONITORING AND REPORTING**

#### **1. GENERAL PROVISIONS**

- 1.1 The Supplier shall provide a competent and proactive Contract Manager to ensure that all Standards and/or Service Levels (if any) specified in this Contract are achieved to the highest standard throughout the Contract Period.

#### **2. PERFORMANCE MONITORING AND REPORTING**

- 2.1 The Supplier shall at all times comply with the Service Standards and Service Levels specified in the Specification.
- 2.2 The Supplier shall comply with the monitoring arrangements referred to in this Contract including, but not limited to, the provision of such data, Management Information and Performance Monitoring Reports as the Council may reasonably require from time to time.
- 2.3 The Supplier shall measure, monitor and report on the performance of this Contract by reference to the Specification, and the Service Standards and Service Levels specified therein, and shall send the Council a quarterly Performance Monitoring Report detailing the level of service which has been achieved against agreed Service Standards to verify compliance with the Specification.
- 2.4 In the event that the Specification fails to specify the Service Standards and Service Levels to which the Goods and/or Services must be provided, and/or the data, Management Information and Performance Monitoring Reports required in support of those Service Standards, the Supplier shall provide the Council with details of how the process in respect of the monitoring and reporting of Service Standard will operate between the Parties, within twenty (20) Working Days of the Commencement Date. The Parties will endeavour to agree such process as soon as reasonably possible, and in any event, the Supplier shall perform its obligations under this Contract in accordance with all applicable Law and Good Industry Practice.
- 2.5 If there has been, or is likely to be, a failure to achieve the agreed Service Standards in the level of performance of the Supplier and/or in the provision of the Goods and/or Services, the Supplier shall immediately notify the Council in writing advising on what action the Supplier has taken to mitigate the impact of the performance failure on the Council and/or Service User, and to resolve the underlying cause and prevent recurrence.

#### **3. PERFORMANCE REVIEW MEETINGS**

- 3.1 The Parties shall attend Performance Review Meetings to discuss the quarterly Performance Monitoring Reports on a [three (3) / six (6) / twelve (12) Monthly – specify as appropriate for the Contract] basis (unless otherwise agreed). The Performance Review Meetings will be the forum for

**SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

the review by the Supplier and the Council of the Performance Monitoring Reports and the level of service which has been achieved against agreed Service Standards.

- 3.2 The Performance Review Meetings shall (unless otherwise agreed) take place at such location and time (within normal business hours) as the Council shall reasonably require and shall be attended by the Supplier's Contract Manager and the Council's Contract Manager, or in the event that they are unable to attend a nominated Authorised Officer of equal status as the Contract Manager.



## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

### SCHEDULE 4: REPRESENTATIVES OF THE PARTIES

[Guidance Note: to be completed on award - insert details of each Parties first and second Contract Representatives]

Council's Contract Manager	Supplier's Contract Manager
<u>Name:</u> NAME, JOB TITLE  <u>Address:</u>  <b>Melton Borough Council</b> Station Approach, Burton Street, Melton Mowbray, LE13 1GH  <u>Telephone:</u> 01664 502502  <u>Email:</u> xxx@melton.gov.uk	<u>Name:</u> NAME, JOB TITLE  <u>Address:</u> XXXXXXXXXXXXX XXXX XXXX <u>Telephone:</u> XXXX <u>Email:</u> XXXX
Council's second Representative	Supplier's second Representative
<u>Name:</u> NAME, JOB TITLE  <u>Address:</u>  <b>Melton Borough Council</b> Station Approach, Burton Street, Melton Mowbray, LE13 1GH  <u>Telephone:</u> 01664 502502 <u>Email:</u> xxx@melton.gov.uk	<u>Name:</u> NAME, JOB TITLE  <u>Address:</u> XXXXXXXXXXXXX XXXX XXXX <u>Telephone:</u> XXXX <u>Email:</u> XXXX

Commented [KS4]: This should be the T3 manager

Commented [KS5]: This should be the relevant director

## SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES

### SCHEDULE 5: PROCESSING PERSONAL DATA AND DATA SUBJECTS

[Guidance Note: Consider clause 24 (Data Protection) of the Contract Terms]

1. The Supplier shall comply with any further written instructions with respect to processing by the Council.
2. Any such further instructions shall be incorporated into this Schedule.

**[Guidance Notes:** This Schedule must be completed by the Council acting as the 'Data Controller' – setting out clear details of the nature, scope and duration of the data processing arrangements where the Supplier (Data Processor) holds and/or processes 'Personal Data' about a 'Data Subject' in connection with the Contract. It is ultimately the responsibility of the relevant Contract Manager to complete this Schedule in respect of their Contract(s).

Any business details (i.e. names, business email & work addresses of Council staff with whom the Supplier corresponds) fall outside the scope of the GDPR and do not need to be included in this schedule.

For the purposes of the GDPR Regulations:

- (1) **'personal data'** means any information relating to an identified or identifiable natural person ('data subject'); an identifiable natural person is one who can be identified, directly or indirectly, in particular by reference to an identifier such as a name, an identification number, location data, an online identifier or to one or more factors specific to the physical, physiological, genetic, mental, economic, cultural or social identity of that natural person;
- (2) **'processing'** means any operation or set of operations which is performed on personal data or on sets of personal data, whether or not by automated means, such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction.]

[DELETE GUIDANCE NOTES – ONCE SCHEDULE IS DRAFTED]

Description	Details
Subject matter of the processing	<i>[This should be a high level, short description of what personal data is actually going to be processed i.e. "Patient data will be processed for the purpose of reviewing medical history to provide for support needs".  Or alternatively you could sign-post this back to the relevant parts of the Specification i.e. "as required by Paragraph xx 'Safeguarding Patients' of the Specification".]</i>

# **SHORT FORM CONTRACT TERMS & CONDITIONS FOR GOOD AND/OR SERVICES**

Duration of the processing	<p><i>[Clearly set out the duration of the processing including dates – this should cover both the duration that the personal data will be processed and the length that the data will be retained for.]</i></p> <p><i>Since Processing covers “the collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction” of personal data - it’s conceivable that you could be adapting, retrieving and consulting on the data for a shorter period, but require retention for a longer period.</i></p> <p><i>The different categories of personal data contained within the Contract must be retained in accordance with the Council’s Document Retention &amp; Records Management Policy].</i></p>
Nature and purposes of the processing	<p><i>[Please be as specific as possible, but make sure that you cover all intended purposes.]</i></p> <p><i>The nature of the processing means any operation such as collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</i></p> <p><i>The purpose might include: employment processing, statutory obligation, recruitment assessment etc.]</i></p>
Type of Personal Data	<i>[Examples here include: name, address, date of birth, NI number, telephone number, pay, images, biometric data etc.]</i>
Categories of Data Subject	<i>[Examples include: Employees (including volunteers, agents, and temporary workers), Councils/ clients, suppliers, patients, students / pupils, members of the public, users of a particular website etc.]</i>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>[Describe how long the data will be retained for, how it be returned or destroyed]</i>