



CCHA TERMS AND CONDITIONS FOR SERVICES GENERAL CONDITIONS

1 INTERPRETATION

- 1.1 The terms and expressions set out in Schedule 1 shall have the meanings ascribed therein.
- 1.2 Condition and paragraph headings shall not affect the interpretation of this Contract.
- 1.3 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality) and that person's personal representatives, successors or permitted assigns.
- 1.4 A reference to a **company** shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.5 Words in the singular shall include the plural and vice versa.
- 1.6 A reference to one gender shall include a reference to the other genders.
- 1.7 A reference to any Party shall include that Party's personal representatives, successors or permitted assigns.
- 1.8 A reference to a statute, statutory provision or subordinated legislation is a reference to it as it is in force from time to time, taking account of any amendment or re-enactment and includes any statute, statutory provision or subordinate legislation which it amends or re-enacts.
- 1.9 A reference to a statute or statutory provision shall include any subordinate legislation made from time to time under that statute or statutory provision.
- 1.10 A reference to **writing** or **written** includes faxes but not e-mail.
- 1.11 References to conditions, clauses and paragraphs are to the conditions of the Contract and the paragraphs of the Schedules.
- 1.12 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 PRECEDENCE

- 2.1 In the event of and only to the extent of any conflict between the Contract Order, the General Conditions or the Contract Specific Conditions, the conflict shall be resolved in accordance with the following order of precedence:



- 2.1.1 the Contract Specific Conditions;
- 2.1.2 the General Conditions;
- 2.1.3 the Contract Order (which for the purposes of this condition 2 excludes any Contract Specific Conditions which take precedence by virtue of condition 2.1.1);
- 2.1.4 any other document referred to in the Contract.
- 2.2 Unless expressly agreed, a document varied pursuant to condition 9 shall not take higher precedence than specified here.

3 DURATION

- 3.1 The Contract shall take effect on the Commencement Date and shall expire automatically at midnight on the last date of the Contract Period set out in the Contract Order, subject to earlier termination in accordance with the terms of the Contract or otherwise lawfully terminated (the "**Initial Term**").
- 3.2 CCHA may, by giving written notice to the Contractor, extend the Contract for a further period up to the date set out in the Contract Order (the "**Extended Term**"). The provisions of this Contract will apply throughout any such extended period.

4 CONTRACTOR'S OBLIGATIONS

- 4.1 The Contractor shall perform its obligations under the Contract in accordance with the terms and conditions set out in the Contract and shall comply and co-operate with any reasonable instructions given by CCHA or the Contract Supervisor.
- 4.2 The Contractor is deemed to have satisfied himself as to the scope, extent and location of work to be carried out under the Contract.
- 4.3 The Contractor will, unless the Contract Order specifically states otherwise, be responsible at its own cost and expense for establishing its own sources of supply for any goods, equipment and materials and for the provision of all necessary Staff needed in connection with the management and performance of the Contract. The Contractor shall not place, or cause to be placed, any orders with Contractors or otherwise incur liabilities in the name of CCHA or any representative of CCHA.
- 4.4 The Contractor shall be responsible for compliance with and ensure that all obligations are performed in accordance with the Health and Safety Requirements.
- 4.5 The Contractor shall ensure that, as an enduring obligation throughout the Contract Period it shall use the latest versions of antivirus definitions available and check for and delete any malicious software.



- 4.6 The Contractor shall comply with the monitoring arrangements set out in the Contract Order including, but not limited to, providing such data and information as the Contractor may be required to produce under this Contract.
- 4.7 If CCHA informs the Contractor that CCHA considers that any part of the Services do not meet the requirements of the Contract or differ in any way from those requirements, and this is other than as a result of default or negligence on the part of CCHA, the Contractor shall at its own expense re-schedule and perform the work correctly within such reasonable time as may be specified by CCHA.

5 INVOICES, PAYMENT, COSTS AND TAX

- 5.1 Unless otherwise specified in the Contract Order, CCHA shall endeavour to pay undisputed sums due to the Contractor in accordance with the Contract Price within 30 days of receipt of valid invoices, submitted monthly in arrears, for work completed to the satisfaction of CCHA.
- 5.2 Any invoices submitted by the Contractor shall contain the purchase order number provided by CCHA, be expressed in sterling, contain all appropriate references, and a detailed breakdown of Services and will be supported by any other documents required by CCHA to substantiate the invoice.
- 5.3 No overhead costs of the Contractor shall be chargeable to or payable by CCHA unless specified in the Contract Order. Overhead costs shall include, without limitation, facilities, utilities, insurance, tax, head office overheads, indirect staff costs and other costs not specifically and directly ascribable solely to the provision of the Services.
- 5.4 Expenses may only be claimed by the Contractor where these are identified in the Contract Order as being recoverable, clearly identified, supported by original receipts and agreed in advance by the Contract Supervisor.
- 5.5 Invoices shall be submitted to CCHA at the address identified in the Contract Order or such other address as CCHA may notify the Contractor from time to time.
- 5.6 Tax, where applicable, shall be shown separately on all invoices as a strictly net extra charge.
- 5.7 CCHA may reduce payment in respect of any Services which the Contractor has either failed to provide or has provided inadequately, without prejudice to any other rights or remedies of CCHA.
- 5.8 CCHA may deduct and withhold from any sum due to the Contractor under this Contract any sum of money due from the Contractor to CCHA whether owed under this Contract or otherwise.



- 5.9 The Contractor shall, within 14 days of receiving a request from CCHA provide a report on all costs and expenses which it has incurred and are recoverable from CCHA under the Contract. The report shall contain sufficient information to identify the purpose of such cost and expense and the identity of the receiver of the same. For the avoidance of doubt the report shall include costs and expenses which have not yet been paid by the Contractor but which it is contractually liable to pay.
- 5.10 Notwithstanding the obligations to provide reports set out in condition 5.9, the Contractor shall inform CCHA prior to it contractually incurring any significant costs or expenses in relation to this Contract. Significant costs in this condition shall mean any cost or expense which exceeds 5 percent of the total Contract Price.
- 5.11 Any late payment of undisputed invoices by CCHA will be subject to interest at the rate of a maximum of 4 percent above the base rate from time to time of the Bank of England.
- 5.12 Where the Contractor enters into a sub-contract with a supplier or contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such a sub-contract which requires payment to be made of all sums due by the Contractor to the sub-contractor within a specified period not exceeding thirty 30 days from the date of a valid invoice.
- 5.13 Any legislative requirement to account for the Services in euro, (or to prepare for such accounting) instead of and/or in addition to sterling, shall be implemented by the Contractor at nil charge to CCHA.
- 5.14 CCHA shall provide all reasonable assistance to facilitate such changes.

6 WARRANTIES AND REPRESENTATIONS

- 6.1 The Contractor warrants and represents that:
- 6.1.1 it has the full capacity and authority and all necessary consents to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Contractor;
- 6.1.2 all obligations of the Contractor hereunder shall be performed and rendered by appropriately experienced, qualified and trained staff with all due skill, care, ability and diligence including but not limited to Good Industry Practice and in accordance with its own established internal procedures;
- 6.1.3 all Staff used to provide the Services will be vetted in accordance with Good Industry Practice and, where applicable, will be subject to CCHA's employment check policy or equivalent and any security policy notified to the Contractor from time to time;



- 6.1.4 the Services shall be to the reasonable satisfaction of CCHA and meet any requirements made known to the Contractor by CCHA;
- 6.1.5 the Services shall correspond with the requirements of the Contract Order and any other specification within the Contract;
- 6.1.6 the Services shall conform 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 (if any) licences, consents, permissions and regulatory approvals from any Regulatory Body necessary to perform the Contractor's obligations under the Contract;
- 6.1.7 it is not in default in the payment of any due and payable taxes or in the filing, registration or recording of any document or under any legal or statutory obligation or requirement which default might have a material adverse effect on its business, assets or financial condition or its ability to observe or perform its obligations under the Contract;
- 6.1.8 it has not and its directors, partners, other senior Staff, associated persons, connected persons or any sub-contractors have not committed any of the offences set out in Schedule 6 or Schedule 7 of the Procurement Act 2023, none of the exclusion grounds set out in Schedule 6 or Schedule 7 of the Procurement Act 2023 apply to any such person nor that any such person is on the debarment list.

7 INTELLECTUAL PROPERTY RIGHTS

- 7.1 All Intellectual Property Rights in any information or material introduced by one Party to the other Party pursuant to this Contract shall remain the property of the Party that owned such Intellectual Property Rights prior to such introduction.
- 7.2 The Contractor grants CCHA a non-exclusive perpetual licence to the Existing Rights solely in order for CCHA to make use and allow others to make use of the Services and the Resulting Rights.
- 7.3 The Contractor undertakes that it has identified and declared to CCHA any data, documentation or know how which the Contractor or its sub-contractors owns, or has rights to, immediately prior to the commencement of the Contract which could be reasonably judged necessary for the Services to be used. The Contractor further undertakes to take, on CCHA's request, all such reasonable steps that are necessary to provide access to such data and documentation as required to enable CCHA to make use of the Services.
- 7.4 The Contractor hereby assigns to CCHA all Resulting Rights and all materials embodying such rights to the fullest extent permitted by law and shall complete any



such documentation and do all such things as CCHA may require to evidence such assignment.

7.5 The Contractor undertakes:

7.5.1 to notify to CCHA in writing full details of any Resulting Rights promptly on their creation, together with full details of the following:

any data, methods or information created by the Contractor (that will not be described, or otherwise included, in the Services);

improved ways of processing or analysing data or information (that will not be described, or otherwise included, in the Services);

any errors or mistakes identified in any information or data supplied by CCHA; or

any potential patentable inventions arising from the Contract.

In the event that the Contractor believes there is nothing to notify this should be confirmed in writing before submission of the final invoice;

7.5.2 whenever requested to do so by CCHA and in any event on the termination of an Engagement, promptly to deliver to CCHA all Confidential Information received from CCHA under the terms of this Contract which are in its possession, custody or power.

7.5.3 that it has identified and declared to CCHA any Intellectual Property Rights that the Contractor or its sub-contractors owns, or has rights to, immediately prior to the commencement of the Contract that could be enhanced by or developed under the Contract, in sufficient detail to ensure that they can be differentiated from those created during the performance of this Contract.

7.6 The Contractor shall not, and shall procure that the Contractor's Staff and Contractors shall not (except when necessary for the implementation of the Contract) without prior consent from CCHA, use or disclose Intellectual Property Rights, or any other information (whether or not relevant to the Contract) which the Contractor may obtain in performing the Contract except information which is in the public domain.

7.7 The Contractor waives, or shall procure the waiver, of any moral rights in the Resulting Rights, to which it is now or may at any future time be entitled under Chapter IV of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction, including (but without limitation) the right to be identified, the right of integrity and the right against false attribution, and agrees not to institute, support or maintain or permit any action or claim to the effect that any treatment, exploitation or use of such Intellectual Property Rights or other materials, infringes the Contractors moral rights.



- 7.8 The Contractor warrants and represents that any materials, products, information or service supplied or licensed by the Contractor under this Contract will not infringe any Intellectual Property Rights of any third party and the Contractor shall during and after the Contract Period on written demand indemnify and shall keep indemnified CCHA against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which CCHA may suffer or incur as a result of or in connection with any breach of this condition, except where any such claim refers to designs furnished by CCHA or the use of data supplied by CCHA which is not required to be verified by the Contractor under any provision of the Contract.

8 CCHA PROPERTY

- 8.1 Where CCHA for the purpose of the Contract issues CCHA property to the Contractor, such property shall, unless otherwise specified, be and remain the property of CCHA. The Contractor shall not in any circumstances have a lien on the CCHA property and the Contractor shall take all reasonable steps to ensure that the title of CCHA to such CCHA property and the exclusion of any such lien are brought to the notice of all sub-contractors and other persons dealing with the Contract.
- 8.2 Any CCHA property made available or otherwise received by the Contractor shall be deemed to be in good condition when received by or on behalf of the Contractor unless the Contractor notifies CCHA otherwise within seven days of receipt.
- 8.3 The Contractor shall maintain all CCHA property in good order and condition and shall use CCHA property solely in connection with the Contract and for no other purpose without prior Approval.
- 8.4 The Contractor shall notify the Contract Supervisor of any surplus CCHA property remaining after completion of the Contract and shall dispose of it as CCHA may direct. Waste of such CCHA property arising from bad workmanship or negligence of the Contractor or any of the Contractor's employees, servants, agents, Contractors or sub-contractors shall be made good at the Contractor's expense. Without prejudice to any other rights of CCHA, the Contractor shall deliver up CCHA property whether processed or not to CCHA on demand.
- 8.5 The Contractor shall ensure the security of all CCHA property, whilst in the Contractor's possession, either on its premises or elsewhere during the performance of the Contract, in accordance with Good Industry Practice and CCHA's reasonable security requirements as required from time to time.
- 8.6 The Contractor shall be liable for any and all loss of or damage to any CCHA property, unless the Contractor is able to demonstrate that such loss or damage was caused by the negligence or default of CCHA. The Contractor's liability set out in this condition shall be reduced to the extent that such loss or damage was contributed to by the negligence or default of CCHA. The Contractor shall inform the



Contract Supervisor within five days of becoming aware of any defects appearing in or losses or damage occurring to CCHA property made available for the purposes of the Contract.

9 ALTERATION OF REQUIREMENT

- 9.1 No variation of the Contract or of any document referred to in it shall be effective unless the costs of the variation shall be agreed and details of the variation are in writing and signed by the parties.

10 CONFLICT OF INTEREST

- 10.1 The Contractor confirms that at the date of the Contract, neither the Contractor nor any of its Staff or Contractors are placed in a position where there is or may be any actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor or such persons and the duties owed to CCHA under the provisions of the Contract and that it shall take appropriate steps to ensure that there is no such conflict throughout the Contract Period. The Contractor will disclose to CCHA full particulars of any such conflict of interest which may arise.
- 10.2 The provisions of this condition 10 shall apply during the continuance of the Contract and indefinitely after its termination.

11 BRIBERY AND CORRUPTION

- 11.1 The Contractor shall:
- 11.1.1 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 (**Relevant Requirements**);
- 11.1.2 not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
- 11.1.3 have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and condition 11.1.1, and will enforce them where appropriate;
- 11.1.4 promptly report to CCHA any request or demand for any undue financial or other advantage of any kind received by the Contractor in connection with the performance of this Contract;
- 11.1.5 when reasonably requested by CCHA, certify to CCHA in writing signed by an officer of the Contractor compliance with this condition by the Contractor and all



persons associated with it under condition 11.2. The Contractor shall provide such other supporting evidence of compliance as CCHA may reasonably request.

11.2 The Contractor shall ensure that any person associated with the Contractor who is performing Services or providing Goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Contractor in this condition 11 (“**Relevant Terms**”). The Contractor shall be responsible for the observance and performance by such persons of the Relevant Terms, and shall be directly liable to CCHA for any breach by such persons of any of the Relevant Terms.

11.3 Breach of this condition 11 shall be deemed a material breach of this Contract.

12 EQUALITY AND EQUAL OPPORTUNITIES

12.1 The Contractor shall not, and shall procure that its Staff shall not, unlawfully discriminate (whether directly or indirectly) against any person.

12.2 The Contractor shall, and shall procure that its Staff involved in the provision of the Services shall, comply with CCHA’s policy on equal opportunities (as amended from time to time).

12.3 In the event of any finding of unlawful discrimination being made against the Contractor or any of its Staff engaged by the Contractor during the term of the Contract by any Court or tribunal, or of any adverse finding in any formal investigation by an official body over the same period, the Contractor must immediately inform CCHA of this in writing and must immediately take all necessary steps to prevent repetition of the unlawful discrimination. The Contractor must on request, provide CCHA with written details of all steps taken under this condition.

13 CCHA DATA

13.1 The Contractor shall not delete or remove any proprietary notices contained within or relating to any CCHA Data.

13.2 The Contractor shall not store, copy or disclose or use the CCHA Data except as necessary for the performance by the Contractor of its obligations under this Contract or as otherwise expressly authorised in writing by CCHA. Any CCHA Data supplied to the Contractor should be returned or destroyed on termination of this Contract.

13.3 To the extent that the CCHA Data is held and/or processed by the Contractor, the Contractor shall supply that CCHA Data to CCHA as requested by CCHA in the format specified in the request.



- 13.4 The Contractor shall take responsibility for preserving the integrity of CCHA Data and preventing the corruption or loss of CCHA Data.
- 13.5 CCHA Data and any third party-owned data issued by CCHA to the Contractor will be provided by means of a licence. The Contractor agrees to adhere to all terms and conditions applicable to the relevant licence and to ensure that all published outputs are annotated with the correct acknowledgments or copyright statement as provided in the licence.
- 13.6 The Contractor shall perform secure back-ups of all CCHA Data and shall ensure that up to date back-ups are stored off-site and in accordance with any business continuity and disaster recovery plan CCHA have in place or requires the Contractor to have in place. The Contractor shall ensure that such back-ups are available to CCHA at all times upon request and are delivered to CCHA at no less than 3 monthly intervals or as requested by CCHA.
- 13.7 The Contractor shall ensure that any system on which the Contractor holds any CCHA Data, including back-up data, is a secure system that complies with any security policy of CCHA and that it has in place appropriate technical and organisational measures to ensure the security of the same.
- 13.8 If the CCHA Data is corrupted, lost or sufficiently degraded as a result of the Contractor's Default so as to be unusable, CCHA may:
- 13.8.1 require the Contractor (at the Contractor's expense) to restore or procure the restoration of CCHA Data to the extent and in accordance with the requirements specified by CCHA; and/or
- 13.8.2 itself restore or procure the restoration of CCHA Data and shall be repaid by the Contractor any reasonable expenses incurred in doing so to the extent and in accordance with the requirements specified by CCHA.
- 13.9 If at any time the Contractor suspects or has reason to believe that CCHA Data has or may become corrupted, lost or sufficiently degraded in any way for any reason then the Contractor shall notify CCHA immediately and inform CCHA of the remedial action the Contractor proposes to take.

14 DATA PROTECTION

- 14.1 The Parties acknowledge that the Contractor shall process CCHA Personal Data. The Parties agree that, prior to the Contractor doing so, they shall enter into a separate data sharing agreement and shall ensure that any outstanding information relating to that processing in the agreement is completed.



15 CONFIDENTIALITY

- 15.1 Each Party:
- 15.1.1 shall treat all Confidential Information belonging to the other as confidential and safeguard it accordingly; and
- 15.1.2 shall not disclose any Confidential Information belonging to the other Party to any other person without the prior written consent of the other Party, except to such persons and to such extent as may be necessary for the performance of the Contract or except where disclosure is otherwise expressly permitted by the provisions of the Contract.
- 15.2 The Contractor shall take all necessary precautions to ensure that all Confidential Information obtained from CCHA under or in connection with the Contract:
- 15.2.1 is given only to such of the Staff and professional advisors or consultants engaged to advise it in connection with the Contract as is strictly necessary for the performance of the Contract and only to the extent necessary for the performance of the Contract;
- 15.2.2 is treated as confidential and not disclosed (without the prior written consent of CCHA) or used by any Staff or such professional advisors or consultants otherwise than for the purposes of the Contract; and
- 15.2.3 that its Staff or professional advisors or consultants are aware of the Contractor's confidentiality obligations under the Contract and shall sign a confidentiality undertaking on the same terms before commencing work in connection with the Contract.
- 15.3 This condition 15 shall not apply to Confidential Information which:
- 15.3.1 is or becomes publicly available (otherwise than by a breach of any obligation of confidentiality); or
- 15.3.2 was known to a Party, without restriction as to its disclosure, before the information was disclosed to it by the other Party; or
- 15.3.3 is received from a third Party who lawfully acquired it and who is under no obligation restricting its disclosure; or
- 15.3.4 is required to be disclosed by Law; or



- 15.3.5 is independently developed by a Party without direct or indirect access to, or use or knowledge of, the information disclosed to it by the other Party.
- 15.4 Nothing in this Contract shall prevent CCHA from disclosing the Contractor's Confidential Information:
- 15.4.1 to Welsh Government or any other Contracting Authority who shall be entitled to further disclose the Confidential Information to its other departments or Contracting Authorities on the basis it is confidential and not be disclosed to any non-Contracting Authority third party;
- 15.4.2 it is required to publish or disclose Transparency Information by Law (including the Procurement Act 2023, any regulations published under it or any Public Procurement Notices);
- 15.4.3 to any consultant, contractor or other person engaged by CCHA or any person for the purposes of an audit review;
- 15.4.4 for the purpose of examination and certification of CCHA's accounts or where required under any audit of the economy, efficiency and effectiveness with which CCHA has used its resources.
- 15.5 Each Party reserves all rights in its Confidential Information. No rights or obligations in respect of a Party's Confidential Information other than those expressly stated in the Contract are granted to the other Party, or to be implied from this Contract.
- 15.6 On termination of this Contract, each Party shall:
- 15.6.1 return to the other Party all documents and materials (and any copies) containing, reflecting, incorporating or based on the other Party's Confidential Information;
- 15.6.2 erase all the other Party's Confidential Information from its computer systems (to the extent possible); and
- 15.6.3 certify in writing to the other Party that it has complied with the requirements of this condition, provided that a recipient Party may retain documents and materials containing, reflecting, incorporating or based on the other Party's Confidential Information to the extent required by Law. The provisions of this condition shall continue to apply to any such documents and materials retained by a recipient Party.
- 15.7 Provided that this condition 15.6 shall not apply to any Confidential Information provided by the Contractor to CCHA in performing its obligations under this Contract and which is necessary for CCHA to benefit from the Services following termination.



- 15.8 Except as expressly stated in this Contract, no Party makes any express or implied warranty or representation concerning its Confidential Information.
- 15.9 The provisions of this condition shall continue to apply after termination of this Contract.

16 Transparency Information

- 16.1 The Parties acknowledge that Transparency Information is not Confidential Information.
- 16.2 Notwithstanding any other provision of this Contract, the Contractor hereby gives its consent for CCHA to publish to the general public and/or disclose the Transparency Information in its entirety (but with any information redacted which is exempt from disclosure in accordance with the provisions set out below). CCHA shall, prior to publication, use reasonable endeavours to consult with the Contractor on the manner and format of publication and to inform its decision regarding any redactions but shall have the final decision in its absolute discretion.
- 16.3 At no additional cost, the Contractor shall assist and co-operate with CCHA to enable CCHA to publish the Transparency Information.
- 16.4 Subject to, and in accordance with, its obligations under the Procurement Act 2023, if CCHA believes that publication of any element of the Transparency Information would be contrary to the public interest, CCHA shall be entitled to exclude such information from publication. CCHA acknowledges that it would expect the public interest by default to be best served by publication of the Transparency Information in its entirety. Accordingly, CCHA acknowledges that it will only exclude Transparency Information from publication in exceptional circumstances and agrees that where it decides to exclude information from publication it will provide a clear explanation to the Contractor.
- 16.5 CCHA shall publish and/or disclose the Transparency Information in accordance with its obligations under the Procurement Act 2023, and in a format that assists the general public in understanding the relevance and completeness of the information being published to ensure the public obtain a fair view on how the Contract is being performed.
- 16.6 The Contractor agrees that any information it holds that is reasonably relevant to or that arises from the provision of the Services shall be provided to CCHA on request. CCHA may disclose such information under the Procurement Act 2023 and may (except for Confidential Information (subject to condition 15.4.2)) publish such information. The Contractor shall provide to CCHA within 5 Working Days (or such other period as CCHA may reasonably specify) any such information requested by CCHA, at no additional cost



- 16.7 The Contractor acknowledges that CCHA is subject to the requirements of the Procurement Act 2023. At no additional cost, the Contractor shall provide all necessary assistance and cooperation as reasonably requested by CCHA to enable CCHA to comply with its obligations under the Procurement Act 2023.
- 16.8 The Contractor acknowledges that CCHA may be required under the Procurement Act 2023 to disclose information without consulting or obtaining consent from the Contractor. CCHA shall be responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the Procurement Act 2023.

17 ENVIRONMENTAL REQUIREMENTS

- 17.1 The Contractor shall, when working on CCHA's Premises, perform the Contract in accordance with CCHA's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

18 HEALTH AND SAFETY

- 18.1 The Contractor shall promptly notify CCHA of any health and safety hazards which may arise in connection with the performance of the Contract. CCHA shall promptly notify the Contractor of any health and safety hazards that it is aware of which may exist or arise at CCHA's Premises and which may affect the Contractor in the performance of the Contract, as far as reasonably practicable.
- 18.2 While on CCHA's Premises, the Contractor shall comply with any health and safety measures implemented by CCHA in respect of staff and other persons working on the Premises. Prior to undertaking the Services, the Contractor will be issued with the relevant CCHA policies.
- 18.3 The Contractor shall notify CCHA immediately in the event of any incident occurring in the performance of the Contract on the Premises, where that incident causes any personal injury or damage to any property which could give rise to personal injury.
- 18.4 The Contractor shall take all necessary measures to comply with the Health and Safety Requirements which may apply to Staff and other persons working on the Premises in the performance of the Contract. The Contractor shall indemnify and keep indemnified CCHA fully against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever ensuring at or in respect of or in connection with any act or omission of the Contractor in relation to compliance with its health and safety obligations.



- 18.5 The Contractor shall ensure that any document required under the Health and Safety Requirements is made available to CCHA upon request.

19 SECURITY

- 19.1 The Contractor acknowledges that CCHA places great emphasis on confidentiality, integrity and availability of information and consequently on the security of Premises and the security of any of the Contractor's systems. The Contractor also acknowledges the confidentiality of CCHA's Data.
- 19.2 The Contractor shall be responsible for the security of any of its systems and shall at all times provide a level of security which:
- 19.2.1 is in accordance with Good Industry Practice and Law;
 - 19.2.2 complies with any security policy of CCHA or any policy CCHA require the Contractor to develop, implement and maintain;
 - 19.2.3 meets any specific security threats to any of the Contractor's systems; and
 - 19.2.4 any other extent national information security requirements and guidance issued from time to time.
- 19.3 The Contractor should avoid the use of removable media to store CCHA Data or information wherever possible. In the event that removable media is used the Contractor shall ensure:
- 19.3.1 the CCHA Data or information transferred to the removable media is the absolute minimum necessary to carry out the Services, both in terms of the number of people covered by the information and the scope of information held;
 - 19.3.2 the removable media should be encrypted to an agreed standard and must be protected by an authentication mechanism; and
 - 19.3.3 user rights to transfer CCHA Data to removable media should be strictly limited to staff for whom it is absolutely necessary.
- 19.4 The Contractor shall as an enduring obligation throughout the Contract Period use the latest versions of anti-virus definitions available to check for and delete any malicious software from its systems or the operating environment.
- 19.5 Without limiting conditions 19.2 and 19.3, the Contractor shall at all times ensure that the level of security employed in the provision of the Services is appropriate to maintain the following at acceptable risk levels (in accordance with Good Industry Practice for the UK public sector):



- 19.5.1 loss of integrity of CCHA Data;
- 19.5.2 loss of confidentiality of CCHA Data;
- 19.5.3 unauthorised access to, use of, or interference with CCHA Data by any person or organisation;
- 19.5.4 unauthorised access to network elements, Premises and tools used by the Contractor in the provision of the Services;
- 19.5.5 use of the Contractor's systems or Services by any third party in order to gain unauthorised access to any computer resource or CCHA Data; and
- 19.5.6 loss of availability of CCHA Data due to any failure or compromise of the Services.
- 19.6 Either Party shall notify the other immediately upon becoming aware of any malicious software or breach of security including, but not limited to, an actual, potential or attempted breach, or threat to any security plan that CCHA have in place or may require the Contractor to develop and put in place.
- 19.7 Upon becoming aware of any circumstances referred to in condition 19.5 the Contractor shall immediately take all reasonable steps necessary to:
 - 19.7.1 remedy such breach or protect the Contractors systems against any such potential or attempted breach or threat; and
 - 19.7.2 prevent an equivalent breach in the future
 - 19.7.3 Such steps shall include any action or changes reasonably required by CCHA.
- 19.8 In the event of any circumstances referred to in condition 19.5 the Contractor shall as soon as reasonably practicable provide to CCHA full details (using such reporting mechanism as may be specified by CCHA from time to time) of such actual, potential or attempted breach and of the steps taken in respect thereof.

20 TERMINATION

- 20.1 Without prejudice to any other rights or remedies which CCHA may have, CCHA may terminate this Contract by giving three months' written notice to the Contractor.
- 20.2 Either Party may terminate the Contract, or terminate the provision of any part of the Contract by written notice to the other Party with immediate effect if that other Party commits a Default and if:



- 20.2.1 the Default is not remedied within 14 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
- 20.2.2 the Default is not capable of remedy; or
- 20.2.3 the Default is a fundamental breach of the Contract.
- 20.3 CCHA may terminate the Contract by notice in writing with immediate effect with no liability to make any further payment to the Contractor (other than in respect of amounts accrued prior to the date of termination) where the Contractor:
 - 20.3.1 undergoes a change of control, within the meaning of section 416 of the Income and Corporation Taxes Act 1988, which impacts adversely and materially on the performance of the Contract; or
 - 20.3.2 becomes insolvent, bankrupt, enters into liquidation, enters into a voluntary arrangement, appoints a receiver or such similar event in any jurisdiction save for the purposes of a solvent reconstruction or amalgamation; or
 - 20.3.3 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 Contractor ceases to trade; or
 - 20.3.4 commits any serious or repeated breach or non-observance of any of the provisions of the Contract or refuses or neglects to comply with any reasonable and lawful directions of CCHA.
- 20.4 CCHA may only exercise its right under condition 20.3.1 within six months of the date a change of control occurs and shall not be permitted to do so where it has agreed in writing in advance to the particular change of control that occurs. The Contractor shall notify the Contract Supervisor immediately when any change of control occurs.
- 20.5 CCHA may terminate the Contract by notice in writing with immediate effect with no liability to make any further payment to the Contractor (other than in respect of amounts accrued prior to the date of termination) where:
 - 20.5.1 in accordance with section 78, and/or section 79 (where applicable), of the Procurement Act 2023, and provided that the requirements of section 78(7) of the Procurement Act 2023 have been met, where:
 - (a) CCHA considers that the Contract was awarded or modified in material breach of the Procurement Act 2023 or regulations made under it;



- (b) the Contractor has, since the award of the Contract become an excluded Contractor or excludable Contractor (including by reference to an associated person or connected person) as set out in section 57 of the Procurement Act 2023 and provided that the conditions in section 78(8) (where applicable) of the Procurement Act 2023 have been met; and/or
- (c) any sub-contractor has, since the award of the Contract become an excluded Contractor or excludable Contractor as set out in section 57 of the Procurement Act 2023 and provided that the conditions in section 78(3) to 78(8) of the Procurement Act 2023 have been met; or

20.5.2 where any sub-contractor has, since the award of the Contract, become an excluded Contractor or excludable Contractor as defined in section 57 of the Procurement Act 2023, provided that prior to exercising its right of termination under this condition 20.5.2 CCHA:

- (a) has notified the Contractor of its intention to terminate under this condition, and why CCHA has decided to terminate the Contract;
- (b) has given the Contractor reasonable opportunity to make representations about whether this condition applies and CCHA's decision to terminate; and
- (c) has given the Contractor a reasonable opportunity to end its sub-contract with the excluded or excludable Contractor, and if necessary, find an alternative sub-contractor.

21 CONSEQUENCES OF TERMINATION

21.1 On termination of the Contract pursuant to conditions 20.1, 20.3.1, 20.3.2 or 20.3.3 CCHA shall:

- 21.1.1 pay to the Contractor sums due and reasonably incurred up to the date of termination where CCHA has received Goods or Services to the equivalent value;
- 21.1.2 pay to the Contractor 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 Contractor 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 Contractor shall submit a fully itemised and costed list of such loss, with supporting evidence of losses reasonably and actually incurred by the Contractor as a result of termination within 5 days of receiving the notice of termination,

provided that any such sum payable in accordance with this condition 21.1 shall only be payable by CCHA if they would have been payable in accordance with this Contract if it had not been terminated.



- 21.2 CCHA shall not be liable under condition 21.1.2 to pay any sum which was claimable under insurance held by the Contractor, or when added to any sum paid or due to the Contractor under the Contract, exceeds the total sum that would have been payable to the Contractor if the Contract had not been terminated prior to the expiry of the Contract Period.
- 21.3 Where CCHA terminates the Contract under condition 20.2, or terminates the provision of any part of the Contract under condition 20.2.20.5, and then makes other arrangements for the provision of Services, CCHA shall be entitled to recover from the Contractor the cost of making those other arrangements and any additional expenditure incurred by CCHA throughout the remainder of the Contract Period. Where the Contract is terminated under condition 20.5, no further payments shall be payable by CCHA to the Contractor until CCHA has established the final cost of making those other arrangements.
- 21.4 Where CCHA terminates the Contract under condition 20.1, CCHA shall pay the Contractor the sums due for Services that have been completed at the date of termination to the satisfaction of CCHA. CCHA shall not be responsible for any other unavoidable losses and the Contractor shall be responsible for mitigating its losses and for reducing its unavoidable losses by any insurance sums available to it (whether or not it chooses to claim against such insurance).

22 EXCLUSIONS

- 22.1 During the Term the Contractor shall notify CCHA as soon as reasonably practicable if:
- 22.1.1 the Contractor considers that an exclusion ground within the Procurement Act 2023 and any associated regulations applies to the Contractor, including where the Contractor is put on the debarment list or becomes an excluded or excludable Contractor by virtue of any associated persons or subcontractors; and/or
- 22.1.2 there are any changes to the Contractor's associated persons within the meaning of the Procurement Act 2023.
- 22.2 If the Contractor notifies CCHA in accordance with condition 22.1.1 then the Contractor must promptly provide any information CCHA reasonably requests in relation to the notification, including information to support an assessment of whether the circumstances giving rise to the exclusion ground are continuing or likely to occur again.
- 22.3 If the Contractor notifies CCHA in accordance with condition 22.1.2 above then the Contractor must promptly provide any information requested by CCHA in relation to the change to the Contractor's associated persons, including any information set out in the Procurement Regulations 2024.



- 22.4 CCHA may terminate this Contract by notice in writing with immediate effect with no liability to make any further payment to the Contractor (other than in respect of amounts accrued prior to the date of termination) if:
- 22.4.1 the Contractor has failed to provide notification under condition 22.1.1 as soon as reasonably practicable after the Contractor becoming aware that an exclusion ground within the Procurement Act 2023 and any associated regulations does or may apply to the Contractor;
- 22.4.2 the Contractor has failed to provide notification under condition 22.1.2 within 3 working days after the Contractor becoming aware of any changes to the Contractor's "associated persons" within the meaning of the Procurement Act 2023; and/or
- 22.4.3 any notification or information provided by the Contractor under condition 22.1, 22.2 and/or 22.3 is incomplete, inaccurate or misleading.
- 22.5 Condition 22.4 is without prejudice to CCHA's rights to terminate the Contract in accordance with condition 20.5.

23 **DISRUPTION**

- 23.1 The Contractor shall take reasonable care to ensure that in the execution of the Contract it does not disrupt the operations of CCHA, its employees or any other contractor employed by CCHA.
- 23.2 The Contractor shall immediately inform CCHA of any actual or potential industrial action, whether such action be by its own employees or others, which affects or might affect its ability at any time to perform its obligations under the Contract.
- 23.3 In the event of industrial action by the Staff or the Contractor's Contractors, the Contractor shall seek CCHA's Approval to its proposals to perform its obligations under the Contract. The Contractor shall be responsible for any costs and/or expenses arising as a result of such action and the continued provision of the Services.
- 23.4 If the Contractor's proposals referred to in condition 23.3 are considered insufficient or unacceptable by CCHA, then the Contract may be terminated by CCHA by notice in writing with immediate effect.

24 **EMPLOYMENT REGULATIONS**

- 24.1 In the event that the termination of this Contract could constitute a "relevant transfer" within the meaning of the Employment Regulations, the Contractor undertakes to CCHA:



- 24.1.1 to comply within any of its obligations under the Employment Regulations and to co-operate with CCHA and or any Replacement Contractor in the event of a relevant transfer;
- 24.1.2 that it has not made any amendment or change to the terms and conditions of its Staff in the 6 months preceding termination of this Contract;
- 24.1.3 to indemnify and keep CCHA indemnified against all liabilities, costs, losses, claims, charges, demands or expenses which are attributable to any act or omission by the Contractor prior to or arising from the termination of the Contract in respect of any of the Contractor's obligations or duties (whether arising under common law, statute, custom or otherwise) to or in relation to any of its Staff or former staff (including but not limited to any liability arising out of the termination or dismissal of any employee or former employee or out of a failure by the Contractor to comply with its obligations under the Employment Regulations);
- 24.1.4 that all amounts payable to or in relation to its Staff engaged in the performance of this Contract (including wages and salaries, overtime, bonus or commission (earned but unpaid), accrued holiday pay, income tax, national insurance contributions, pension contributions and insurance premiums) in respect of the period prior to the termination of this Contract shall be discharged by the Contractor and the Contractor undertakes to indemnify CCHA against any and all costs, charges and expenses arising out of or in connection with such amounts; and
- 24.1.5 to indemnify CCHA and any Replacement Contractor in respect of any claims arising from any act or omission of the Contractor in relation to any other of the Contractor's Staff who are not employed, assigned or engaged in providing the Services under the Contract.
- 24.2 The Parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to this condition 24 to the extent necessary to ensure that any Replacement Contractor shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Contractor by the Contractor in its own right pursuant to section 1(1) of the Contracts (Rights of Third Parties) Act 1999.
- 24.3 At least six months preceding the expiry of this Contract or after CCHA has given notice to terminate the Contract or if the Contractor stops trading, and within 10 Working Days of being so requested by CCHA, the Contractor shall fully and accurately disclose to CCHA for the purposes of the Employment Regulations all information relating to its Staff engaged in providing the Services under this Contract, in particular, but not necessarily restricted to, the following:
 - 24.3.1 the total number of Staff whose employment with the Contractor is liable to be terminated at the expiry of this contract but for any operation of law; and



- 24.3.2 for each person, age and gender, details of their salary, and pay settlements covering that person which relate to future dates but which have already been agreed and their redundancy entitlements (the name of individual members of employed staff do not have to be given); and
- 24.3.3 full information about the other terms and conditions on which the affected Staff are employed (including but not limited to their work arrangements), or about where that information can be found; and
- 24.3.4 details of pension entitlements, if any; and
- 24.3.5 job titles of the members of Staff affected and the qualifications required for each position.
- 24.4 The Contractor shall permit CCHA to use the above information for the purposes of the Employment Regulations and of re-tendering. The Contractor will co-operate with the re-tendering of this Contract by allowing any Replacement Contractor or new service provider to communicate with and meet the affected Staff and/or their representatives.
- 24.5 The Contractor agrees to indemnify CCHA fully and to hold it harmless at all times from and against all actions, proceedings, claims, expenses, awards, costs and all other liabilities whatsoever in any way connected with or arising from or relating to the provision of (or failure to provide) information under condition 24.3.

25 **LIABILITY AND INSURANCE**

- 25.1 Neither Party excludes or limits liability to the other for death or personal injury caused by its negligence or for any breach of any obligations implied by section 12 of the Sale of Goods Act 1979 or such other liability that it is not permissible to exclude by law.
- 25.2 The Contractor shall indemnify and keep indemnified CCHA 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 Contractor, or any other loss which is caused directly or indirectly by an act or omission of the Contractor. This condition 25.2 shall not apply to the extent that the Contractor 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 Staff or by any circumstances within its or their control.
- 25.3 The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing a level of cover and other terms of insurance



acceptable to and agreed by CCHA in respect of all risks which may be incurred by the Contractor, arising out of the Contractor's performance of the Contract, including death or personal injury, loss of or damage to property, employers liability, product liability, professional indemnity or any other loss. Such policies shall include cover in respect of any financial loss arising from any advice given or omitted to be given by the Contractor.

- 25.4 The Contractor shall on request supply to CCHA copies of such insurance policies and evidence that the relevant premiums have been paid.
- 25.5 The Contractor shall notify CCHA as soon as possible and in any event within 48 hours of any incident that may lead to any claim, demand or proceedings and shall supply such particulars or details thereof as CCHA shall reasonably require.
- 25.6 The Contractor shall fully and promptly indemnify CCHA in respect of any damage whatsoever caused by any staff of the 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 CCHA arising out of or in consequence of the performance of the Contract or the performance of the Services.

26 LIMITATION OF LIABILITY

- 26.1 Subject to condition 25.1, CCHA'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:
 - 26.1.1 for non-payment of invoices for Services purchased, to the amount unpaid; or
 - 26.1.2 for any other type of liability, to the amount paid for the Services under the Contract.
- 26.2 Subject to condition 25.1, the Contractor'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 or one hundred and twenty five percent (125%) of the total Contract Price whichever is the greater.
- 26.3 Subject to condition 25.1, neither Party will be liable to the other Party for:
 - 26.3.1 any indirect, special or consequential loss or damage; or
 - 26.3.2 any loss of profits, turnover, business opportunities or damage to goodwill (whether direct or indirect).
- 26.4 Subject to condition 26.2 CCHA may, amongst other things, recover as a direct loss:



- 26.4.1 any additional operational and/or administrative costs and expenses arising from the Contractor's Default;
- 26.4.2 any wasted expenditure or charges rendered unnecessary and/or incurred by CCHA arising from the Contractor's Default;
- 26.4.3 the additional cost of procuring replacement Services for the remainder of the Contract Period; and
- 26.4.4 any anticipated savings.

27 **ASSIGNMENT, SUB-CONTRACTORS AND CONTRACTORS**

- 27.1 The Contractor shall not assign, sub-contract or in any other way dispose of the Contract or any part of it without the prior written consent of CCHA. Sub-contracting any part of the Contract shall not relieve the Contractor of any obligation or duty attributable to the Contractor under the Contract. The Contractor shall ensure that it does not any time during the Term enter into a sub-contract with:
 - 27.1.1 any supplier that is on the debarment list on the basis of a mandatory exclusion ground within the meaning of the Procurement Act 2023 and associated regulations; or
 - 27.1.2 any supplier that is on the debarment list on the basis of a discretionary exclusion ground within the meaning of the Procurement Act 2023 and associated regulations, unless the Contractor has obtained CCHA's prior written consent to the appointment of the relevant proposed Sub-contractor.
- 27.2 The Contractor shall be responsible for the acts and omissions of its sub-contractors as though they are its own.
- 27.3 CCHA may at any time novate, assign, transfer, charge, mortgage, subcontract or deal in any other manner with all or any of its rights under the Contract and may sub-contract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

28 **AUDIT**

- 28.1 The Contractor shall keep and maintain full and accurate records to the satisfaction of CCHA of all expenditure which is reimbursable by CCHA and of the hours worked and costs incurred in connection with any employees of the Contractor paid for by CCHA on a time charge basis.
- 28.2 The Contractor shall allow CCHA, its agents, representatives and auditors, and/or a Regulatory Body or governmental department access at all times to:



- 28.2.1 records and other materials and assets used in the Contractor's provision of the Services; and
- 28.2.2 the Contractor's Staff involved in the provision of the Services;
- 28.2.3 reasonable access to any sites or premises controlled by the Contractor and to any equipment of systems used (whether exclusively or non-exclusively) in the performance of the Services; and
- 28.2.4 witness, conduct or access results of any tests of security processes and counter-measures required to be in place in accordance with this Contract.
- 28.3 The Contractor shall co-operate with any audit carried out pursuant to this condition and shall make available all such information and records as are reasonably required by the auditing Party to conduct the audit free of charge and on a timely basis and shall allow the auditing Party to take copies of all such information and records.
- 28.4 Without prejudice to any other rights or remedies CCHA may have, if any audit identifies that the Contractor has failed to perform its obligations under this Contract in any material manner, the Parties shall agree and implement a remedial plan.

29 **WAIVER**

- 29.1 Failure to exercise, or any delay in exercising, any right or remedy provided under the Contract or by Law shall not constitute a waiver of that (or any other) right or remedy, nor shall it preclude or restrict any further exercise of that (or any other) right or remedy.
- 29.2 No single or partial exercise of any right or remedy provided under the Contract or by Law shall preclude or restrict the further exercise of any such right or remedy.
- 29.3 Except as otherwise expressly provided by the Contract, all remedies available to either Party for breach of the Contract are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 29.4 A waiver (which may be given subject to conditions) of any right or remedy provided under the Contract or by Law shall only be effective if it is in writing and shall apply only to the Party to whom it is addressed and for the specific circumstances for which it is given. It shall not prevent the Party who has given the waiver from subsequently relying on the right or remedy in other circumstances.

30 **SEVERABILITY**

- 30.1 If any provision (or part of a provision) of the Contract is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal,



such provision shall be severed and the other provisions will remain in force and effect as if the Contract had been executed with such invalid, illegal or unenforceable provision eliminated.

31 FORCE MAJEURE

- 31.1 Neither Party shall be liable to the other for any delay in or failure to perform its obligations under the Contract if such delay or failure results from a Force Majeure event. Notwithstanding the foregoing, each Party shall use all reasonable endeavours to continue to perform its obligations under the Contract. If a Party is unable to perform its obligations under the Contract as a result of a Force Majeure event for a period in excess of 6 months, the other Party may terminate the Contract by notice in writing with immediate effect.
- 31.2 If either Party becomes aware of circumstances of Force Majeure which give rise to or which are likely to give rise to any such failure or delay on its Party it shall notify the other as soon as reasonably possible and shall estimate the period such failure or delay shall continue.

32 CHANGE IN LAW

- 32.1 The Contractor shall neither be relieved of its obligations to supply the Services in accordance with the terms of this Contract nor be entitled to an increase in the charges as the result of:
- 32.1.1 a General Change in Law; or
- 32.1.2 a Specific Change in Law where the effect of that Specific Change in Law on the Services is known at the Commencement Date whether by publication of a Bill, as part of a Government departmental consultation paper, a draft statutory instrument a proposal or otherwise.
- 32.2 If a Specific Change in Law occurs or will occur during the Contract Period (other than those referred to in condition 32.1), the Contractor shall notify CCHA of the likely effects of that change, including:
- 32.2.1 whether any change is required to the Services, the Contract Price or this Contract; and
- 32.2.2 whether any relief from compliance with the Contractor's obligations is required, including any obligation to achieve any milestones or to meet any service level requirements at any time.
- 32.3 As soon as practicable after any notification in accordance with condition 32.1 the Parties shall discuss and agree the matters referred to in condition 32.1 and any ways



in which the Contractor can mitigate the effect of the Specific Change of Law, including:

- 32.3.1 providing evidence that the Contractor has minimised any increase in costs or maximised any reduction in costs, including in respect of the costs of its subcontractors;
- 32.3.2 demonstrating that a foreseeable Specific Change in Law had been taken into account by the Contractor before it occurred;
- 32.3.3 giving evidence as to how the Specific Change in Law has affected the cost of providing the Services; and
- 32.3.4 demonstrating that any expenditure that has been avoided has been taken into account in amending the Contract Price.
- 32.4 Any increase in the Contract Price or relief from the Contractor's obligations agreed by the Parties pursuant to this condition 32 shall be implemented in accordance with condition 9.1.

33 **FRAUD**

- 33.1 The Contractor shall safeguard CCHA's funding of the Contract against fraud generally and, in particular, fraud on the part of its Staff, or the Contractor's directors and Contractors. The Contractor shall notify CCHA immediately if it has reason to suspect that any fraud has occurred or is occurring or is likely to occur.

34 **RECOVERY OF SUMS DUE**

- 34.1 Wherever under the Contract any sum of money is recoverable from or payable by the Contractor (including any sum which the Contractor is liable to pay to CCHA in respect of any breach of the Contract), CCHA may unilaterally deduct that sum from any sum then due, or which at any later time may become due to the Contractor under the Contract or under any other agreement or contract with CCHA.

35 **ANNOUNCEMENTS**

- 35.1 The Contractor shall not make, or permit any person to make, any public announcement concerning the Contract (whether before, at or after completion) except as required by Law or with the prior written consent of CCHA (such consent not to be unreasonably withheld, delayed or conditioned).

36 **CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**



- 36.1 Subject to condition 24.2, a person who is not a Party to the Contract shall not have any rights under or in connection with it by virtue of the Contracts (Rights of Third Parties) Act 1999.

37 **DISPUTE RESOLUTION**

- 37.1 If any dispute arises between the Parties in connection with this Contract, the Party raising the dispute should in the first instance provide a written complaint to the Party against whom the complaint is made. Complaints to CCHA should be addressed to CCHA's Executive Director for Finance and Corporate Services.
- 37.2 The Party against whom the complaint is made will investigate the complaint and confirm to the Party raising the dispute whether or not any appeal has been successful.
- 37.3 Within 30 days of either Party notifying the other of the dispute, the Parties shall attempt in good faith to negotiate a settlement to the dispute and such efforts shall involve the escalation of the dispute to the finance director (or equivalent) of each Party and a meeting between the Parties.
- 37.4 If the dispute cannot be resolved by the Parties pursuant to condition 37.3, the dispute may, subject to agreement by both Parties, be referred to mediation. Both Parties must give proper consideration to the use of mediation.
- 37.5 Each Party must bear its own costs in relation to the mediation and agree to pay half each of the mediator's fees.
- 37.6 The performance of the Contract shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Parties shall comply fully with the requirements of the Contract at all times.
- 37.7 If either Party elects not to pursue the alternative dispute resolution procedure set out in this condition, both Parties shall submit to the jurisdiction of the courts of England and Wales.

38 **CCHA PANEL MEETINGS**

- 38.1 Without prejudice to the rights of either Party under any other condition contained within this Contract or otherwise, in the case of a breach by the Contractor in relation to the Contract, CCHA commits to hold an internal meeting to discuss and investigate the breach.
- 38.2 A final report will then be issued to the Contractor and the Contractor will be given a reasonable amount of time, to be established at the panel meeting, by which to respond.



- 38.3 A meeting between the Contractor and CCHA's panel will then be held to discuss the report and the Contractor's response. Depending on the outcome of this meeting, CCHA may terminate or suspend the Contract, as provided for by this Contract.

39 **ENTIRE CONTRACT**

- 39.1 The Contract and any documents referred to in it constitute the whole agreement between the parties and supersede any previous arrangement, understanding or agreement between them relating to the subject matter of this Contract.
- 39.2 Each Party warrants to the other parties that, in entering into the Contract and the documents referred to in it, it does not rely on any statement, representation, assurance or warranty of any person (whether a Party to this Contract or not) other than as expressly set out in the Contract or those documents.
- 39.3 Nothing in this condition shall limit or exclude any liability for fraud.

40 **SCOPE OF CONTRACT**

- 40.1 Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between the parties, nor constitute any Party the agent of the other Party for any purpose. No Party shall have authority to act as agent for, or to bind, the other Party in any way.

41 **NOTICE**

- 41.1 Any notice required to be given under the Contract shall be in writing and shall be delivered personally, or by commercial courier, or by facsimile transmission, or electronic mail, to each Party required to receive the notice at its address (to include electronic mail address) as set out in the Contract Order or at such other address as the relevant Party may specify by notice in writing to the other.
- 41.2 Any notice shall be deemed to have been duly given:
- 41.2.1 if delivered personally, when left at the address referred to in the Contract Order;
or
- 41.2.2 if delivered by commercial courier, on the date of signature of the courier's receipt;
or
- 41.2.3 if delivered by facsimile transmission or electronic mail, four hours after the time of sending.
- 41.3 The provisions of this condition shall not apply to the service of any process in any legal action or proceedings.



42 **LAW AND JURISDICTION**

- 42.1 The Contract and all disputes or claims arising out of or in connection with it or its subject matter shall be governed by and construed in accordance with the law of England and Wales (as applied in Wales).
- 42.2 The parties irrevocably agree that the courts of England and Wales shall have exclusive jurisdiction to settle all disputes or claims that arise out of or in connection with the Contract or its subject matter.

43 **WELSH LANGUAGE**

- 43.1 The Contractor shall comply with the requirements of CCHA's Welsh Language Scheme where applicable to the performance of its obligations under the Contract.



Schedule 1 DEFINITIONS

Approval and Approved: means the written consent of the Contract Supervisor.

CCHA: means Cardiff Community Housing Limited, a society registered pursuant to the Co-operative and Community Benefit Societies Act 2014 (with number IP21667R) of Tolven Court, Dowlais Road, Cardiff, CF24 5LQ and subsidiaries.

CCHA Data: means the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media and which are:

- (a) supplied to the Contractor by or on behalf of CCHA; or
- (b) which the Contractor is required to generate, process, store or transmit pursuant to the Contract; or
- (c) any personal data for which CCHA is the controller.

CCHA Personal Data: means any personal data which the Contractor processes in connection with this Contract, in the capacity of a processor on behalf of CCHA.

Commencement Date: means the date when the project, services or contract is to start as specified in the Contract Order.

Confidential Information: 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 business, affairs, properties, assets, trading practices, Services, developments, trade secrets, Intellectual Property Rights, know-how, personnel, customers and Contractors of either Party and all personal data and sensitive personal data .

Contract: means the Contract between CCHA and the Contractor consisting of these General Conditions, the Contract Specific Conditions, the Contract Order and any other documents (or parts thereof) specified by CCHA.

Contract Order: the Contract Order form or purchase order form issued by CCHA to the Contractor setting out the specification and requirements.

Contract Period: means the period of duration of the Contract from the Commencement Date in accordance with the Contract Order.



Contract Price: means the price exclusive of any applicable tax, payable to the Contractor by CCHA under the Contract, as set out in the Contract Order, for the full and proper performance by the Contractor of its part of the Contract as determined under the conditions of the Contract.

Contract Specific Conditions: means the special terms and conditions of CCHA applicable to the type of Services to be provided by the Contractor as set out in Schedule 2 or in the Contract Order.

Contract Supervisor: means the person for the time being appointed by CCHA as being authorised to administer the Contract on behalf of CCHA or such person as may be nominated by CCHA to act on its behalf.

Contracting Authority: has the meaning given to it in section 2 of the Procurement Act 2023.

Contractor: means the person, firm or company with whom CCHA enters into the Contract the details of which are set out in the Contract Order.

Default: means any breach of the obligations of either Party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of either Party, its employees, agents or sub-contractors in connection with or in relation to the subject matter of the Contract and in respect of which such Party is liable to the other.

Delivery Location: means, unless otherwise agreed in writing by CCHA, the location set out for delivery in the Contract Order.

Employment Regulations: means the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended under the Collective Redundancies and Transfer of Undertakings (Protection of Employment) (Amendment) Regulations 20014 (SI2014/16).

Engagement: means the engagement of the Contractor by CCHA to provide the Services on the terms of the Contract.

Existing Rights: means any Intellectual Property Rights of the Contractor used in the provision of the Services that was in existence prior to the Commencement Date which was not specifically created for use or intended use in relation to the performance of the obligations under this Contract.

Force Majeure: means any event or occurrence which is outside the reasonable control of the Party concerned, and which is not attributable to any act or failure to take preventative action by the Party concerned, including (but not limited to) governmental regulations, fire, flood or any disaster. It does not include any industrial action occurring within the Contractor's organisation or within any sub-contractor's organisation.



General Conditions: means these terms and conditions.

General Change in Law: means a change in Law which comes into effect after the Commencement Date, where the change is of a general legislative nature (including taxation or duties of any sort affecting the Contractor) or which would affect or relate to a comparable supply of services of the same or a similar nature to the supply of the Services.

Good Industry Practice: means using standards, practice, methods and procedures and exercising that degree of skill and care, diligence, prudence and foresight which one would reasonably and ordinarily be expected from a skilled and experienced person engaged in a similar type of understanding under the same or similar circumstances.

Goods: means any goods agreed in the Contract Order to be supplied to CCHA by the Contractor (including any part or parts of them).

Health and Safety Requirements: means all applicable health and safety legislation, rules, policies and regulations and other reasonable health and safety requirements that CCHA has in force from time to time.

Intellectual Property Rights: means all Intellectual Property Rights including without limitation, patents, inventions, trademarks, service marks, logos, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off.

Law: means applicable law, statute, bye-law, regulations, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.

Key Personnel: means those persons named in the Specification as being key personnel.

Party: means any Party to this Contract individually and "**Parties**" refers to all of the parties to this Contract collectively. A Party shall include all permitted assigns of the Party in question.

Premises: means the location at which the Services are to be provided as specified in the Contract Order.

Publishable Performance Information: means any of the information that CCHA is permitted or required to publish by the Procurement Act 2023, any regulations published under it and any Procurement Policy Notes, relating to the performance of the Contractor.



Quality Standards: means those quality standards required of the Services as specified in the Contract (or if not expressly specified within the Contract, those quality standards as agreed between the parties prior to the Commencement Date.

Regulatory Body: means those government departments and regulatory, statutory and other entities, committees 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 CCHA.

Replacement Contractor: means a firm, company or organisation with which CCHA contracts to provide the Services or service which is substantially the same type of services (in whole or in part) after termination of the Contract.

Resulting Rights: means individually and collectively all inventions, improvements and/or discoveries which are conceived and/or made and any Intellectual Property Rights created by one or more members of Staff of the Contractor or its subcontractors acting either on their own or jointly with one or more employees of CCHA in performance of the Services.

Services: means any such Goods, services or works as are to be supplied by the Contractor under the Contract more particularly described in the Contract Order.

Specific Change in Law: means a change in Law which comes into effect after the Commencement Date that relates specifically to the business of CCHA, and which would not affect a comparable supply of services of the same or a similar nature to the supply of the Services.

Staff: means all persons employed by the Contractor to perform the Contract together with the Contractor's servants, agents and sub-contractors used in the performance of the Contract.

Term: means the Initial Term and any Extended Term.

Timetable: the timetable for the provision and completion of the Services as specified in the Contract Order for the Services.

Transparency Information: means:

- (a) any information or notices, permitted or required to be published by the Procurement Act 2023, any Regulations published under it, and any Procurement Policy Notes, subject to any exemptions set out in sections 94 and 99 of the Procurement Act 2023, which shall be determined by CCHA; and



(b) the Publishable Performance Information, subject to any exemptions set out in sections 94 and 99 of the Procurement Act 2023 which shall be determined by CCHA.

Working Days: means those days when the clearing banks are open for business other than a Saturday, Sunday or public holiday in England and Wales.



Schedule 2

CONTRACT SPECIFIC CONDITIONS FOR THE PURCHASE OF SERVICES/GOODS/WORKS/CONSULTACY

These Contract Specific Conditions are to be read in conjunction with the General Conditions and the Contract and govern the provision of services by a Contractor to CCHA:

Commented [MC1]: Choose and attach the correct schedule.