ISLE OF ANGLESEY COUNTY COUNCIL

GENERAL CONDITIONS OF CONTRACT

FOR THE SUPPLY OF CONSULTANCY SERVICES

1. INTERPRETATION

1.1 In the Contract (as defined below) the following words and expressions will have the following meanings:-

(a) "The Authority" means Isle of Anglesey County Council of Council offices, Llangefni, Anglesey LL77 7TW.

(b) The “Bribery Act” means the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant Government Department concerning the legislation.

(c) The "Chief Officer" means the Chief Executive, the Corporate Directors or Heads of Services or any other such authorised Officer.

(d) The "Contract" means the General Conditions of Contract, the specification, the schedule of prices, the tender or other offer and its acceptance and any other supplemental documents.

(e) The “Contract Manager” means any such persons as are notified from time to time to the Contractor by the Chief Officer in writing. Any Contract Manager shall undertake day to day monitoring of the Services provided within this Contract on behalf of the Chief Officer.

(f) “The Contractor” means the person or persons, firm or company whose tender or other offer has been accepted by the Authority and includes the Contractor’s personal representatives successors permitted assigned servants or agents.

(g) “Prohibited Act” - the following constitute Prohibited Acts:

(a) to directly or indirectly offer, promise or give any person working for or engaged by the Authority a financial or other advantage to:

(I) induce that person to perform improperly a relevant function or activity; or

(b) reward that person for improper performance of a relevant function or activity;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;

(II) under legislation creating offences concerning fraudulent acts;

(III) at common law concerning fraudulent acts relating to this Contract or any other contract with the Authority; or

(IV) defrauding, attempting to defraud or conspiring to defraud the Authority.

(h) “Regulations” mean the Transfer of Undertakings (Protection of Employment) Regulations 2006 as amended or modified from time to time;

(i) "Relevant Employees" mean the employees who are the subject of a Relevant Transfer;

(j) “Relevant Transfer” means a relevant transfer for the purposes of the Regulations;

(k) “Safety Legislation” means the Health and Safety at Work Act 1974 and the Consumer Protection Act 1987 together with all regulations made under them including but not limited to, the General Product Safety Regulations 1994, the Control of Substances Hazardous to Health Regulations 1999 and all other legislation, codes of proactive and guidance from time to time amended (including subordinate legislation and European Community legislation to the effect that it has direct effect in Member State) imposing legal requirements with respect to health and safety at work and/or the safety of any Goods handling storage transportation or disposal of any Goods used in the performance of this contract, and also the health and safety of any users of the Services provided under this Contract.

(l) “Service Provider Party” means the Contractor’s agents including each Sub-Contractor.

(m) “Service Provider Personnel” means all employees, agents, consultants and contractors of the Service Provider or of any Sub-Contractor.

(n) The "Services" means the work to be done and the other obligations of the Contractor as specified in the contract and all data, reports, drawings,

specifications, designs, inventions, plans, programs and other material produced or acquired in the course of the performance of the work.

(o) “Sub-Contract” means any contract or agreement, or proposed contract or agreement, between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Services or any part of the Services, or facilities or services necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of the Services.

(p) “Sub-Contractor” means the third parties that enter into a Sub-Contract with the Contractor.

(q) The “Tender” means a Contractor’s formal proposal submitted in response to an invitation to tender or a Contractor’s quotation of price.

1.2 Words importing the singular also include the plural and vice versa where the context requires and words importing the masculine gender shall likewise include the feminine gender

1.3 The marginal headings and notes in these General Conditions will not be deemed to be part thereof or taken into consideration in the interpretation or construction hereof of the Contract

1.4 All references contained in this document to clauses are references to clauses numbered in these General Conditions and not to those in any other document forming part of the Contract.

1.5 A reference to any statute enactment order or other similar instrument shall be construed as a reference to the statute enactment order regulation or instrument as amended by any subsequent statute enactment order regulation or instrument or as contained in any subsequent re-enactment thereof.

2 TERMS AND CONDITIONS

2.1 The conditions shall apply to all contracts for the supply of Services to the Authority from the Contractor to the exclusion of all other terms and conditions including any terms and conditions which the Contractor may purport to apply under any sales offer or similar document or in correspondence. These conditions constitute the entire understanding between the Authority and the Contractor with respect to the subject matter covered by the contract of purchase and supersede all previous agreements and understandings between the parties.

2.2 Provision of the Services shall be deemed conclusive evidence of the Contractor’s acceptance of these conditions.

2.3 Any variations of these Conditions (including any special terms and conditions agreed between the parties) shall be inapplicable unless agreed in writing in accordance with Clause 43 by the Authority

2.4 Save as otherwise expressly provided, the obligations of the Authority under the Contract are obligations of the Authority in its capacity as a contracting counterparty and nothing in the Contract shall operate as an obligation upon, or in any other way fetter or constrain the Authority in any other capacity, nor shall the exercise by the Authority of its duties and powers in any other capacity lead to any liability under the Contract (howsoever arising) on the part of the Authority to the Contractor.

3 THE SERVICES

3.1 The Contractor shall provide the Services during the Contract Period in accordance with the Authority's requirements as set out in the Specification and the terms of this Contract. The Authority shall have the power to inspect and examine the performance of the Services at the Authority's Premises at any reasonable time or, provided that the Authority gives reasonable notice to the Contractor, at any other premises where any part of the Services is being performed.

3.2 In providing the Services, the Contractor shall comply with and take into account all applicable laws,enactments, orders, regulations and other similar instruments, the requirements of any Court with relevant jurisdiction and any local, national or supernational agency, inspectorate, minister, ministry, official or public or statutory person of the government of the United Kingdom or of the European Union.

3.3 If the Authority informs the Contractor that the Authority considers any part of the Services to be noncompliant with the specification or in any way differing from the Contract, other than as a result of default or negligence on the part of the Authority, the Contractor shall at its own expense ensure compliance within such reasonable time as may be specified by the Authority.

3.4 Time shall be of the essence for the purposes of any provision of the Contract.

3.5 Without prejudice to any other rights and remedies the Authority may have pursuant to the Contract, the Contractor shall reimburse the Authority for all reasonable costs incurred by the Authority which have arisen as a direct consequence of the Contractor's delay in the performance of the Contract which the Contractor had failed to remedy after being given reasonable notice by the Authority.

4 CONTRACT PERIOD

4.1 On request, the Contractor shall produce a timetable of activities to be carried out during the contract period. Any such timetables or amendments to timetables shall be agreed in writing with the Chief Officer.

4.2 On request, the Contractor shall submit to the Authority progress reports detailing its adherence to the contract timetable specified in condition 4.1. The submission and acceptance of such reports shall not prejudice the rights of the Authority under any other conditions of contract

5 CONTRACTOR'S STATUS

In carrying out the Services the Contractor shall be acting as Principal and not as the Agent of the Authority.

Accordingly:

5.1 The Contractor shall not (and shall procure that its employees, servants or agents do not) say or do anything that might lead any other person to believe that the Contractor is acting as the Agent of the Authority; and

5.2 Nothing in this Contract shall impose any liability on the Authority in respect of any liability incurred by the Contractor to any other person but this shall not be taken to exclude or limit any liability of the Authority to the Contractor that may arise by virtue of either a breach of the Contract or by negligence on the part of the Authority, the Authority's employees, servants or agents.

5.3 The Contractor shall not hold itself out as being authorised to enter into any contract on behalf of the Authority to the performance, variation, release or discharge of any obligation to a third party. The employees of the Contractor shall not hold themselves out to be and shall not be held out by the Contractor as being servants or agents of the Authority.

6 STANDARD OF WORK

6.1 To the extent that the standard of work has not been set out in the Specification the Contractor shall use the best applicable techniques and standards and execute the Contract with all reasonable care, skill and diligence, and in accordance with good industry practice.

6.2 The Contractor warrants and represents that all employees, servants or agents assigned to the performance of the Services shall possess and exercise such qualifications, skill and experience as are necessary for the proper performance of the Services.

6.3 The introduction of new methods or systems which impinge on the provision of the Services shall be subject to prior approval in writing by the Authority, such approval not being reasonably withheld.

6.4 The signing by the Contract Manager (or his representative) of time sheets or other similar documents shall not be construed as implying the Contractor's compliance with the Contract.

7 REMEDIES IN THE EVENT OF INADEQUATE PERFORMANCE

7.1 Where a complaint is received about the standard of Services or about the fundamental way any Services have been delivered or work has been performed or about the materials or procedures used or about any other matter connected with the performance of this Contract, then the Contract Manager shall take all reasonable steps to ascertain whether the complaint is valid. If the Contract Manager so decides, he may uphold the complaint, or take further action in accordance with the provisions of Clause 24 of this Contract.

7.2 In the event that the Authority is of the opinion that there has been a fundamental breach of this Contract by the Contractor, or the Contractor's performance of his duties under the Contract has failed to meet the requirements as set out in Clause 7.1 above, then the Authority may, without prejudice to its rights under Clause 24 of the Contract, do any of the following:

(a) make such a deduction from the payment to be made to the Contractor as the Authority shall reasonably determine to reflect sums paid or sums which would otherwise be payable in respect of such of the Services as the Contractors shall have failed to provide;

(b) without terminating the Contract, itself provide or procure the provision of part of the Services until such time as the Contractor shall have demonstrated to the reasonable satisfaction of the Authority that the Contractor will once more be able to perform such part of the Services in accordance with the Contract;

(c) without terminating the whole of the Contract, terminate the Contract in respect of part of the Services only (whereupon a corresponding reduction in the Contract Price shall be made) and thereafter itself provide or procure a third party to provide such part of the Services; and/or

(d) terminate, in accordance with Clause 24, the whole of the Contract.

7.3 The Authority may charge to the Contractor any cost reasonably incurred by the Authority and any reasonable administration costs in respect of the provision of any part of the Services by the Authority or by a third party to the extent that such

costs exceed the payment which would otherwise have been payable to the Contractor for such part of the Services.

7.4 In the event that the Authority enforces any of its right under Clause 24, the Contractor shall forthwith deliver up to the Authority all Authority Property (including, but not limited to, access to keys) relating to the Services or part of the Services.

7.5 If the Contractor fails to perform any of the Services to the reasonable satisfaction of the Authority and such failure is acknowledged by the Contractor and the Authority to be capable of remedy, then the Authority shall instruct the Contractor to perform the work and the Contractor shall at its own expense remedy such failure (and any damage resulting from such failure) within fourteen (14) days or such other period of time as the Authority may direct.

7.6 In the event that:

(a) the Contractor fails to comply with Clause 7.5 above; or

(b) the Contractor persistently fails to comply with Clause 7.5 above, and such failures, taken as a whole, materially adverse the commercial interests of the Authority the Authority reserves the right to terminate the Contract by notice in writing with immediate effect.

7.7 The remedies of the Authority under this condition may be exercised successively in respect of any one or more failures by the Contractor.

8 VARIATION OF THE SERVICES

8.1 The Authority reserves the right on giving reasonable written notice from time to time to require changes to the Services (whether by way of the removal of Services, the addition of new Services, or increasing or decreasing the Services or locations where the Services are to be provided) for any reasons whatsoever. Such a change is hereinafter called “a Variation”.

8.2 In the event of a Variation the Contract Price may also be varied. Such Variation in the Contract Price shall be calculated by the Authority and agreed with the Contractor and shall be such amount as properly and fairly reflects the nature and extent of the Variation in all the circumstances. Failing agreement the matter shall be determined by negotiation or mediation in accordance with the provisions of Clause 35.

8.3 The Contractor shall provide such information as may be reasonably required to enable such varied price to be calculated.

8.4 This Contract shall not be varied or amended unless such variation or amendment is agreed in writing by a duly authorised representative of the Authority on behalf of the Authority and by a duly authorised representative of the Contractor on behalf of the Contractor.

8.5 The control of change under this Contract shall be in accordance with any change control procedure that may be agreed between the parties. The control of change under any order shall be in accordance with the agreed change control procedures.

9 CONTRACTOR'S EMPLOYEES

9.1 If, with reasonable justification, the Authority gives the Contractor notice that any person is not to become involved in or is to be removed from involvement in the performance of the Contract, the Contractor shall take all reasonable steps to comply with such notice and if required by the Authority the Contractor shall replace any person removed under this condition with another suitably qualified person and procure that any pass issued to the person removed is surrendered.

9.2 If and when instructed by the Authority, the Contractor shall give to the Authority a list of names and addresses of all persons who are or who may be at any time concerned with the Services or any part of them, specifying the capabilities in which they are so concerned, and giving such other particulars and evidence of and other supporting evidence as the Authority may reasonably require.

9.3 The decision of the Authority as to whether any person is not to become involved in or is to be removed from involvement in the performance of the Contract and as to whether the Contractor has furnished the information or taken the steps required by this Condition shall be final and conclusive.

9.4 The Contractor shall bear the cost of any notice, instruction or decision of the Authority under this Condition.

9.5 While on the premises of the Authority the Contractor shall comply, and shall ensure that its employees comply, with the requirements of the Health and Safety at Work Act 1974 and other relevant legislation, including regulations and codes of practice issued thereunder, and with the Authority's own policies and procedures.

9.6 The Contractor shall provide its staff with a form of identification that is acceptable to the Authority and which staff shall display on their clothing at all times when they are on the Authority's premises.

9.7 All Contractor's staff shall report to the Contract Manager on arrival and departure from the premises. Visits to the premises are not permitted without the prior consent of the Contract Manager.

9.8 The Contractor shall cause as little interference and disruption as possible with other activities on the premises.

9.9 The Contractor shall instruct its staff about the fire risks and require them not to smoke on any Authority premises as the Authority operates a strict “No Smoking” policy throughout its premises.

10 PURCHASING ON BEHALF OF THE AUTHORITY

10.1 In the event that the Contractor is required to procure Services on behalf of the Authority, including equipment from third parties then they shall at all times do so in accordance with the provisions of the Consolidated European Procurement Directives as though the Contractor were a Contracting Authority within the meaning of the said Regulations and also the Authority’s Financial Regulations. A copy of the Financial Regulations is available on request from the Contract Manager.

11 THE TENDER PRICE

11.1 The Contractor shall clearly set out and be bound by the price in his tender in the manner required which unless otherwise agreed between the parties in writing shall be the price for purchasing the Services.

11.2 The Authority does not bind itself to accept the lowest or any tender and reserves the right to accept any tender in whole or in part that the Authority deems appropriate.

12 PRICE

12.1 The price for the supply of the Services will be the price stipulated in the Contractor's tender and unless otherwise so stated shall be:

(a) Exclusive of any applicable VAT (which shall be payable by the Authority subject to receipt of a valid VAT invoice); and

(b) Where appropriate the contract price shall include the cost of instruction of the Authority’s personnel in the use of the Services such instructions shall be in accordance with the requirement of the Contract.

(c) The sum or sums payable to the Contractor by the Authority under this Contract shall constitute the only remuneration in connection with the Services and neither the Contractor nor its employees shall accept any commission discount allowance or indirect payment or other consideration in connection with or in relation to the Services supplied under this Contract or to the discharge of the Contractor’s obligations hereunder.

12.2 No increase in the Price may be made (whether on account of increase material labour or transport costs fluctuations in rates of exchange or otherwise) without the prior written consent of the Authority.

12.3 Proposals for the revision of prices must be submitted in writing to the Chief Officer at the Authority at least thirty (30) days prior to the effective date of the variation. The Contractor must furnish such evidence as may be reasonably required to satisfy the Authority that the amount of any increase in cost is justified and / or any decrease in cost is adequate.

12.4 Any proposed price increases may be subject to the relevant industry price index in force at the time of any contract award. The Authority retains the right to stipulate the appropriate price indices unless otherwise agreed with the Contractor

12.5 Revised prices will only be paid after the Contractor has received written confirmation of the new prices from the Chief Officer at the Authority.

12.6 In no circumstances will the Authority consider themselves under an obligation to pay any increased prices of which they have not received the requisite notice and which they have not agreed in writing to accept.

12.7 In the event of failure to reach agreement on the revision of prices, either party shall be at liberty to refer to arbitration.

12.8 The Authority may set off against the price (including any applicable VAT payable) amounts due from the Contractor whether under the Contract or any other contract with the Authority.

13 PAYMENTS & TAX

13.1 Invoices shall be rendered by the Contractor to the Chief Officer in respect of the Services supplied to each order and shall clearly quote the number of the order/contract to which they refer. All invoices must be submitted to the Chief Officer within seven (7) days from completion of the relevant stage of the Services.

13.2 The Authority shall pay the Contract Price to the Contractor, by BACS (Bank Automated Clearing System) if the Authority so chooses, within thirty (30) days of the completion of the Services or a valid invoice (rendered in accordance with Clauses 12.1(a) and 12.1(b)), whichever is later.

13.3 The Authority shall not be responsible for the payment of any charges for the supply of Services provided in excess of those required as laid out in any Order or any variation of it unless authorised in writing by a further Order.

13.4 Each invoice shall contain all appropriate references and a detailed breakdown of the Services and shall be supported by any other documentation reasonably required by the Contract Manager to substantiate the invoice.

13.5 Tax, where applicable, shall be shown separately on valid Tax invoices as a strictly net extra charge

14 MANNER OF CARRYING OUT THE SERVICES

14.1 The Contractor shall provide all the Equipment necessary for the provision of the Services. The Contractor shall make no deliveries of materials plant or other things nor commence any work on the Authority's premises without obtaining the Chief Officer's prior consent.

14.2 Access to the Authority's premises shall not be exclusive to the Contractor but only such as shall enable the performance of the Contract concurrently with the execution of work by others. The Contractor shall co-operate with such others as the Chief Officer may reasonably require.

14.3 All Equipment brought onto the Authority's premises shall be at the Contractor's own risk. The Contractor shall provide for the haulage or carriage thereof to the Premises and the removal of Equipment when no longer required at its sole cost. The Contractor shall ensure that the Authority's Premises are appropriate to contain and operate the Equipment.

14.4 The Contractor shall maintain all items of Equipment within the Authority's Premises in a safe, serviceable and clean condition. The Contractor shall ensure that all Equipment provided is compliant with all current legislation.

14.5 All Equipment shall be at the risk of the Contractor and the Authority shall have no liability for any loss of or damage to any Equipment unless the Contractor is able to demonstrate that such loss or damage was caused or contributed to by negligence or default of the Authority.

14.6 The Chief Officer shall have the power at any time during the progress of the Contract to order in writing:

14.6.1 The removal from the Authority's premises of any Equipment which in the opinion of the Authority are either hazardous, noxious or not in accordance with the Contract; and / or

14.6.2 The substitution of property and suitable materials, plant, equipment; and / or

14.6.3 The removal and proper re-execution notwithstanding any previous test thereof or interim payment therefore of any work which, in respect of material or workmanship is not in the opinion of the Chief Officer in accordance with the Contract

14.6.4 On completion of the Contract the Contractor shall remove the Equipment and unused materials and shall clear away from the Authority's premises all rubbish arising out of the Services, make good any damage caused to the Authority's Premises by the removal of the Equipment and leave the Authority's premises in a neat and tidy condition.

14.7 The Authority may at its option purchase any item of Equipment from the Contractor at any time, if the Authority considers that the item is likely to be required in the provision of the Services following the expiry or termination of the Contract. The purchase price to be paid by the Authority shall be the fair and market value.

15 LICENCE TO OCCUPY AUTHORITY'S PREMISES

15.1 Any land or Premises (including temporary buildings) made available to the Contractor by the Authority in connection with the Contract shall be made available to the Contractor free of charge and shall be used by the Contractor solely for the purpose of performing the Contract. The Contractor shall have the use of such land and premises as licence and shall vacate the same on completion, termination or abandonment of the Contract.

15.2 The Contractor shall not use the Authority's Premises for any purpose or activity other than the provision of the Services unless given prior approval in writing.

15.3 The Contractor and Contractor's employees, servants, agents, suppliers or Sub-Contractors shall observe and comply with such rules and regulations as may be in force at any time for the use of such Premises as determined by the Authority, and pay for the cost of making good any damage caused by the Contractor, his employees, servants, agents, suppliers and Sub-Contractors other than fair wear and tear. For the avoidance of doubt, damage includes damage to the fabric of the buildings, plant, fixed equipment or fittings therein.

15.4 The Parties agree that there is no intention on the part of the Authority to create a tenancy of whatsoever nature in favour of the Contractor or its employees, servants, agents, suppliers or Sub-Contractors and that no such tenancy has or shall come into being and, notwithstanding any rights granted pursuant to this Contract, the Authority retains the right at any time to use any premises owned or occupied by it in any manner the Authority sees fit

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16 ASSIGNMENT AND SUBLETTING

16.1 The Contractor shall not assign the Contract or any part thereof or any benefit in or under the Contract without the written consent of the Chief Officer, such consent not to be unreasonably withheld.

16.2 The Authority shall be entitled to assign the benefit of the Contract or any part thereof and shall give written notice of any assignment to the Contractor.

16.3 The Contractor shall not sublet the whole of the Contract or any part thereof except where such subletting may be customary to the trade concerned. Any subletting will be notified to the Chief Officer within five (5) working days.

16.4 Where the Authority has consented to the placing of sub-contracts, copies of each sub-contract shall be sent by the Contractor to the Authority within five (5) working days of issue.

16.5 The Contractor acknowledges and agrees that by way of illustration only and without restricting or fettering the Authority's right to withhold its consent on reasonable grounds it shall be reasonable for the Authority to withhold its consent where the sub-contracting of any element of the provision of the Services would be contrary to law or contrary to public or government policy or contrary to public morality and decency or which it is not in the national interest. If with the Authority's consent the Contractor sub-contracts the provision of any element of the Services, every act or omission of the Sub-Contractor shall for the purposes of the Contract be deemed to be the act or omission of the Contractor and the Contractor shall be liable to the Authority thereafter as if such act or omission had been committed or omitted by the Contractor itself.

16.6 Where the Contractor enters into a sub-contract with a supplier or contractor for the purpose of performing the Contract, it shall cause a term to be included in such a sub-contract which requires payment to be made of undisputed sums by the Contractor to the Sub-Contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice, as defined by the subcontract requirements.

17 LIABILITY OF CONTRACTOR

17.1 The Contractor shall indemnify the Authority in full in respect of all claims for damage or injury to any person or to any property and against all actions, suits, claims, demands, costs, charges, or expenses awarded against or incurred by the Authority (including the costs of transport, labour, administration and legal expenses on an indemnity basis to the Authority) arising from:

17.1.1 breach of any warranty given by the Contractor in relation to the Services; or

17.1.2 any act or omission of the Contractor or its employees, agents or Sub-Contractors in providing the Services.

17.2 Without prejudice to any other provision of the Contract, the Contractor shall fully indemnify the Authority against any claims made against it as a result of any failure by the Contractor to comply with any statutory provision to be observed or performed in connection with the supply of the Services.

17.3 Save as provided by Clause 17.4 the Authority shall not under any circumstances be liable to the Contractor whether in contract, tort or otherwise, for any loss, damage or injury however caused or arising out of, or in the course of or in connection with, the provision by the Contractor or the Contractor's employees of the Services.

17.4 Clause 17.3 shall not apply in relation to:

17.4.1 any failure by the Authority to make proper payment to the Contractor in accordance with the terms of the Contract; and

17.4.2 any deliberate or negligent act or omission of the Authority or any of its employees and in particular any negligent act or omission giving rise to death or personal injury.

17.5 The Authority shall not in any event be liable to the Contractor for any indirect or consequential loss whatever and however caused.

17.6 The Contractor's liability to indemnify the Authority arising under Clauses 17.1 and 17.2 above shall be without prejudice to any other right or remedy of the Authority arising under this Contract.

18 INSURANCE

18.1 Without prejudice to its liabilities under Clause 17 the Contractor shall throughout the Contract term maintain and shall ensure that any Sub-Contractor engaged for any purpose connected with the provision of the Services maintains with a reputable insurance company such insurances as are necessary to cover product liability and any liability of the Contractor or, as the case may be, of the Sub-Contractor, in respect of loss of or damage to property and personal injury to, or death of, any person arising out of or in the course of or caused by the Contractor's carrying out or failing to carry out obligations under the Contract or the Sub-Contractor carrying out or failing to carry out his subcontract obligations and against all actions, claims, demands, proceedings, damages, costs, charges and expenses in respect thereof.

18.2 The Contractor shall throughout the Contract Period maintain such insurances as are necessary to cover any liability arising under Clauses 17 and 18.1. Such insurance cover shall have an indemnity limit of not less than **five million pounds**

(£5,000,000) in respect of any one incident or series of connected events in respect of public liability and a figure of no less than **ten million pounds (£10,000,000)** as regards employers' liability.

18.3 The Contractor shall supply to the Authority upon request a certificate from its insurers or brokers confirming that the Contractor's insurance policies comply with Clause 18.2 and the Contractor shall supply to the Authority on request copies of all insurance policies, cover notes, premium receipts and other documents necessary to establish compliance with Clause 18.2.

18.4 If, for whatever reason, the Contractor fails to give effect to and maintain insurances required by the Contract, the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.

18.5 The terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under the Contract. It shall be the responsibility of the Contractor to determine the amount of insurance cover that will be adequate to enable the Contractor to satisfy any liability referred to in Clause 18.1.

19 PROFESSIONAL INDEMNITY

19.1 The Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain appropriate cover. To comply with its obligations under this Clause 19.1, and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than **one million pounds (£1,000,000)** for any occurrences arising out of each and every event. Such insurance shall be maintained for a minimum of 6 years following expiration or earlier termination of the Contract.

20 SURETIES

20.1 The Contractor shall if required give security for the due and faithful performance of the Contract and any order placed in such one of the following ways shall be indicated by the Authority:-

20.1.1 By the Contractor executing a Bond in a form to be approved by the Chief Officer in a sum equal to ten per cent of the value or amount of any order placed under the Contract; or

20.1.2 By the Contractor obtaining a Guarantee by its holding company or companies (as defined by Section 154 of the Companies Act 1985 if the Contractor is a subsidiary company within the meaning of the said Act); or

20.1.3 by a deposit being made with the Authority of a sum equal to ten per cent of the value or amount of any order placed under the Contract

21 CONTRACT AGREEMENT

21.1 The Contractor will when called upon in writing enter into and execute a Contract Agreement prepared by the Authority in the form as prescribed by the Chief Officer**.**

22 STATUTORY AND COMMON LAW LIABILITY

22.1 Nothing in these General Conditions will be deemed to free the Contractor from any liability placed on the Contractor for the provision of the Services of the class or classes included in the Contract by statute or at a common law

23 FORCE MAJEURE

23.1 The Contractor and the Authority shall be released from their respective obligations in the event of a national emergency or prohibitive governmental regulation or if any other cause beyond the reasonable control of the parties either renders the performance of this Contract impossible whereupon all monies due under the Contract shall be paid immediately and in particular

23.1.1 The Authority shall immediately pay any outstanding money for Services already provided.

23.1.2 The Contractor will repay any monies taken for Services that have not been provided.

23.2 For the avoidance of doubt, both parties agree that any acts, events, omissions, happenings or nonhappenings resulting from the adoption of the Euro by the United Kingdom Government shall not be considered to constitute Force Majeure under this Contract.

23.3 For the avoidance of doubt it is hereby expressly declared that the only events which shall afford relief from liability for failure or delay shall be any event qualifying for Force Majeure hereunder.

24 TERMINATION & CONSEQUENCES OF TERMINATION

24.1 The Authority may terminate the Contract (in whole or in part) with immediate effect by notice in writing to the Contractor on or at any time after the occurrence of any of the following events:

24.1.1 The passing by the Contractor of a resolution for its winding up or the making by a Court of competent jurisdiction of an order for the winding up of the Contractor or the dissolution of the Contractor;

24.1.2 the making of an administration order in relation to the Contractor or the appointment of a receiver or administrative receiver over, or the taking of possession or sale by an encumbrancer of a material part of the Contractor's assets;

24.1.3 the Contractor making an arrangement or composition with its creditors generally or making an application to a court of competent jurisdiction for protection from its creditors generally;

24.1.4 a breach by the Contractor of its obligations to take out and maintain required insurances;

24.1.5 a fundamental breach by the Contractor of any of its obligations under this Contract (ref Clause 7.2);

24.1.6 there is a change of ownership or control of the Contractor which, in the reasonable opinion of the Authority, will have a material impact on the supply of the Services or the image of the Authority

24.2 In the event of the Authority having the right to terminate under Clauses 24.1.1, 24.1.2 or 24.1.3, the Authority may, at its sole discretion, give the receiver, liquidator or other person (as appropriate) the option of carrying out the Contract subject to a guarantee acceptable to the Authority being provided for the due and faithful performance of the Contract.

24.3 The Authority shall be entitled to cancel the Contract in respect of all or part only of the Services by giving notice to the Contractor at any time prior to delivery or performance, in which event the Authority's sole liability shall be to pay the Contractor for the Price of the Services in respect of which the Authority has exercised its right of cancellation, less the Contractor's net saving of cost arising from the cancellation.

24.4 In the event of and upon any termination or expiry of this Contract the Contractor and the Authority shall each carry out their respective responsibilities in accordance with the Contract until termination.

24.5 The termination of this Contract shall not prejudice or affect any claim, right, action or remedy that shall have accrued or shall thereafter accrue to either party.

24.6 Following the termination of this Contract, neither the Authority nor the Contractor shall have any further obligation or right with respect to the other party provided

that termination of this Contract shall not affect the continuing rights and obligations of the parties under the provision of the Contract that is expressed to survive termination or is required to give effect to such termination or the consequences of such termination.

24.7 Once a contract has been terminated, the Authority will have the power to enter into a new contract with any other person or persons firm or company for the completion of the Contract.

24.8 The termination or expiry of this Contract or an order shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to either party.

25 PREVENTION OF FRAUD OR CORRUPTION

25.1 The Authority will be entitled to cancel the contract and recover from the Contractor the amount of any loss resulting from such cancellation if:

25.1.1 the Contractor shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or reward 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

25.1.2 for showing or forbearing to show favour or disfavour to any person in relation to the Contract; or

25.1.3 if the like acts shall have been done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Contractor); or

25.1.4 if in relation to the Contract, the Contractor or any other person employed by him or acting on his behalf will have committed any offence under the Prevention of Corruption Acts 1889 to 1916; or

25.1.5 will have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.

25.2 For the purposes of this condition the expression ‘loss’ shall include the reasonable cost to the Authority of the time spent by its officers in terminating the Contract and in making alternative arrangement for the provision of the Services

25.3 The Contractor must take all reasonable steps including all preliminary enquiries and investigations to prevent the risk of fraud to the Authority. Where such preliminary actions suggest the possibility of fraud or other irregularity affecting the resources of the Authority, the Contractor shall immediately inform the Authority.

25.4 The Contractor shall not enter into this Contract if, in connection with it, commission has been paid or agreed to be paid to any person employed by the Authority or acting on its behalf by the Contractor or on the Contractor's behalf or to the Contractor's knowledge, unless before this Contract is made particulars of any such commission and of the terms and conditions of any agreement for the payment thereof have been disclosed in writing to the Authority.

25.5 In the event of any breach of Clause 25 by the Contractor or by anyone employed by the Contractor or acting on the Contractor's behalf (whether with or without the knowledge of the Contractor) or the commission of any offence by the Contractor or anyone employed by the Contractor or acting on behalf of the Contractor under the Prevention of Corruption Acts, 1889 to 1916 or under Section 117(2) and (3) of the Local Government Act 1972 in relation to this or any other contract with the Authority, the Authority may summarily terminate this Contract or the relevant Order by notice in writing to the Contractor in accordance with Clause 24, provided always that such termination shall not prejudice or affect any right of action or remedy which shall have accrued or shall accrue thereafter to the Authority and provided always that the Authority may recover from the Contractor the amount or value of any such gift, consideration or commission.

25.6 The decision of the Authority shall be final and conclusive in any dispute, difference or question arising in respect of:-

25.6.1 the interpretation of this Clause (except so far as the same may relate to the amount recoverable from the Contractor under Clause 18.5 in respect of any loss resulting from such termination of this Contract); or

25.6.2 the right of the Authority under Clause 24 to terminate this Contract; or

25.6.3 the amount or value of any such gift, consideration or commission.

26 PREVENTION OF BRIBERY

26.1 The Contractor:

26.1.1 shall not, and shall procure that any Service Provider Party and all Service Provider Personnel shall not, in connection with this Contract commit a Prohibited Act;

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

26.2 The Contractor shall:

26.2.1 if requested, provide the Authority with any reasonable assistance, at the Authority's reasonable cost, to enable the Authority to perform any activity required by any relevant Government or Agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;

26.2.2 within ten (10) working days of the Commencement Date, and annually thereafter, certify to the Authority in writing (such certification to be signed by an Officer of the Contractor) compliance with this Clause 26 by the Contractor and all persons associated with it or other persons who are supplying goods or services in connection with this Contract. The Contractor shall provide such supporting evidence of compliance as the Authority may reasonably request.

26.3 The Contractor shall have an anti-bribery policy (which shall be disclosed to the Authority) to prevent any Service Provider Party or Service Provider Personnel from committing a Prohibited Act and shall enforce it where appropriate.

26.4 If any breach of Clause 26.1 is suspected or known, the Contractor must notify the Authority immediately.

26.5 If the Contractor notifies the Authority that it suspects or knows that there may be a breach of Clause 26.1 the Contractor must respond promptly to the Authority's enquiries, co-operate with any investigation, and allow the Authority to audit books, records and any other relevant documentation. This obligation shall continue for two (2) years following the expiry or termination of this Contract.

26.6 The Authority may terminate this Contract by written notice with immediate effect if the Contractor, Service Provider Party or Service Provider Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches Clause 26.1. In determining whether to exercise the right of termination under this Clause 26.6, the Authority shall give all due consideration, where appropriate, to action other than termination of this Contract unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:

26.6.1 with the authority; or,

26.6.2 with the actual knowledge;

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

26.6.3 in circumstances where any one or more of the Directors of the Contractor ought reasonably to have had knowledge.

26.7 Any notice of termination under Clause 26.6 must specify:

26.7.1 the nature of the Prohibited Act;

26.7.2 the identity of the party whom the Authority believes has committed the Prohibited Act, and

26.7.3 the date on which this Contract will terminate.

26.8 Despite Clause 35 (Disputes) any dispute relating to:

26.8.1 the interpretation of Clause 26.1; or

26.8.2 the amount or value of any gift, consideration or commission, shall be determined by the Authority and its decision shall be final and conclusive.

26.9 Any termination under Clause 26.6 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Authority.

27 FAIR WAGES AND CONDITIONS OF SERVICES

27.1 The Contractor will in respect of all persons employed by him (whether in execution of the Contract or otherwise) in every factory, workshop or place occupied or used by him for the execution of the Contract comply with the following conditions

27.1.1 Pay rates of wages and observe hours and conditions of labour not less favourable than those established for the trade or industry in the district where the work is carried out, by machinery of negotiation or arbitration to which the parties are organisation of employers and trade unions representative respectively of substantial proportions of the employers and workers engaged in the trade or industry in the district;

27.1.2 In the absence of the rates of wages hours or conditions of labour so established pay rates and observe hours and conditions of labour which are not less favourable than the general level of wages hours and conditions observed by other employers whose general circumstances in the trade or industry in which the Contractor is engaged are similar.

27.2 The Contractor will recognise the right of his workforce to be members of such trade union as they may choose or subject to Section 58 of the Employment Protection (Consolidation) Act 1978, as amended, not to be members of a trade

union or other organisation of workers to refuse to be a member of any particular trade union or organisation of workers.

27.3 The Contractor will at all times during the Contract period display, for the information of his work people in every factory, workshop or place occupied or used by him for the Contract a copy of Clause 27.1.1 and 27.1.2 above

27.4 The Contractor will be responsible for the observance of this Clause by Sub-Contractors employed under the Contract and will if required notify the Authority of the names and addresses of all such Sub-Contractors

27.5 In the event of any question arising as to whether the foregoing conditions are being observed the question will, if not otherwise disposed of, be referred for decision to an independent arbitrator jointly agreed by the Authority and Contractor

27.6 The Contractor will keep proper books and time sheets in relation to the wages paid to persons in his employ and engaged in the Contract and such documents will, if required by the Authority, be produced for inspection by the Chief Officer

28 EQUAL OPPORTUNITIES

28.1 The Contractor shall:

28.1.1 demonstrate effective implementation of its policies in relation to recruitment practices including at least evidence of open recruitment methods such as use of the Job Centre or press advertisements;

28.1.2 regularly review the full range of equality policies and procedures and take specific action to make any necessary changes; and

28.1.3 regularly monitor the ethnic composition of its workforce.

28.2 The Contractor shall observe as far as possible the Commission for Racial Equality's Code of Practice in Employment as approved by Parliament in 1983.

28.3 The Contractor shall comply with the provisions of the Disability Discrimination Act 1995.

28.4 The Contractor shall provide such information as the Authority may reasonably request for the purpose of assessing the Contractor's compliance in respect of equalities.

28.5 The Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race, colour, ethnic or national origin, disability, sex or sexual orientation, religion or belief, or age without prejudice to the generality of the

foregoing. The Contractor shall not unlawfully discriminate within the meaning and scope of the Sex Discrimination Act 1975, The Equal Pay Acts 1970 and 1983, the Disability Discrimination Act 1995, the Employment Equality (Sexual Orientation) Regulations 2003, the Employment Equality (Religion or Belief) Regulations 2003, the Human Rights Act 1998 or other relevant legislation, or any statutory modification or re-enactment thereof.

28.6 The Contractor shall take all reasonable steps to secure the observance of Clause 28.5 by all servants, employees or agents of the Contractor and all suppliers and Sub-Contractors employed in the execution of the Contract

29 HEALTH AND SAFETY

29.1 The Contractor and all persons (including any Sub-Contractors) employed by it shall throughout the contract term comply fully with the requirements of the Safety Legislation.

29.2 The Contractor shall provide to the Chief Officer any information relating to the Contractor's compliance with Clause 29.1 that the Authority may reasonably request.

29.3 The Contractor shall provide to the Chief Officer, within seven (7) days of receipt, copies of any communication concerning the health, safety, welfare, environmental or fire safety standards of the Services, which he receives from any statutory body.

29.4 The Contractor shall notify the Authority of any health and safety hazards which may arise in connection with the performance of this Contract.

29.5 The Authority shall notify the Contractor of any health and safety hazards which may exist or arise at the premises and which may affect the Contractor. The Contractor shall draw these hazards to the attention of its employees and the Sub-Contractors or any persons engaged by the Contractor in the performance of this Contract at the Premises.

29.6 The Contractor shall inform all persons engaged in the performance of this Contract at the premises of all such hazards and shall instruct such persons in connection with any associated safety measures.

29.7 While on the Authority's premises, the Contractor shall comply with any health and safety measures implemented by the Authority in respect of Staff and other persons working on those Premises.

29.8 The Contractor shall notify the Authority immediately in the event of any incident occurring in the performance of the Contract on the Authority's premises where

that incident causes any personal injury or damage to property which could give rise to personal injury.

29.9 The Contractor shall comply with the requirements of the Health & Safety at Work Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the performance of the Contract.

29.10 The Contractor shall ensure that its Health & Safety policy statement (as required by the Health & Safety at Work Act 1974) is made available to the Authority on request.

30 HUMAN RIGHTS ACT 1998

30.1 The Contractor shall comply with the provisions of the Human Rights Act 1998 as if it were a public body as defined in the Human Rights Act 1998 as appropriate to the provision of the Services.

31 DATA PROTECTION ACT 1998

31.1 The Contractor shall comply with its obligations under the Data Protection Act 1998 (the "1998 Act") and the Computer Misuse Act 1990 insofar as performance of this Contract gives rise to obligations under those Acts.

31.2 The Contractor shall ensure that it does nothing knowingly or negligently which places the Authority in breach of the Authority's obligations under the 1998 Act.

31.3 Where the Contractor or any of its Sub-Contractors, as part of the Services under this Contract, processes personal data as a data processor on behalf of the Authority, the Contractor shall, and shall procure its Sub-Contractors to:-

31.3.1 Act only on instructions from the Authority as data controller; and

31.3.2 Comply with the Authority's instructions in relation to the processing of personal data as such instructions are given and varied from time to time by the Authority.

31.4 Each Party shall:-

(a) treat all confidential information belonging to the other Party as confidential and safeguard it accordingly; and

(b) 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.

31.5 The Contractor shall take all necessary precautions to ensure that all Confidential Information obtained from the Authority under or in connection with the Contract:

(a) 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;

(b) is treated as confidential and is not disclosed (without prior approval) or used by and Staff or such professional advisors or consultants otherwise than for the purposes of the Contract.

31.6 Where it is considered necessary in the opinion of the Authority, the Contractor shall ensure that Staff or such professional advisors or consultants sign a confidentiality undertaking before commencing work in connection with the Contract. The Contractor shall also ensure that Staff or such professional advisors or consultants are aware of the Contractor's confidentiality obligations under the Contract.

31.7 The Contractor shall not use any Confidential Information it receives from the Authority otherwise than for the purposes of the Contract.

31.8 The provisions of Clause 31 shall not apply to any Confidential Information received by one Party from the other:

(a) which is or becomes public knowledge (otherwise than by breach of this Clause);

(b) which was in the possession of the receiving Party, without restriction to its disclosure, before receiving it from the disclosing Party;

(c) which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure;

(d) is independently developed without access to the Confidential Information; or

(e) which must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to Clause 32.

31.9 Nothing in this Clause shall prevent the Authority:

(a) disclosing any Confidential Information for the purpose of:

(i) the examination and certification of the Authority's accounts; or

(ii) any examination pursuant to Sections 44 and 46 of the Audit Commission Act 1998 of the economy, efficiency and effectiveness with which the Authority has used its resources; or

(b) disclosing any Confidential Information obtained from the Contractor:

(i) to any government department or any other Contracting Authority. All government departments or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other government departments or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Contracting Authority; or

(ii) to any person engaged in providing any Services to the Authority for any purpose relating to or ancillary to the Contract;

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

31.10 Nothing in this Clause shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Contract in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

32 FREEDOM OF INFORMATION ACT

32.1 The Contractor acknowledges that the Authority is or may be subject to the Freedom of Information Act 2000 (FOIA) and may be required to disclose information about the Contract to ensure the compliance of the Authority with the FOIA. The Contractor notes and acknowledges the FOIA and both the respective Codes of Practice on the Discharge of Public Authorities' Functions and on the Management of Records (which are issued under Sections 45 and 46 of the FOIA respectively) as may be amended, updated or replaced from time to time. The Contractor will act in accordance with the FOIA and these Codes of Practice (and any other applicable codes of practice or guidance notified to the Contractor from time to time) to the extent that they apply to the Contractor's performance under the Contract.

32.2 The Contractor agrees that the decision on whether any exemption applies as to a request for disclosure of recorded information is a decision solely for the Authority. Where the Authority is managing a request as referred to in this Clause, the Contractor shall co-operate with the Authority if it so requests and shall respond within five (5) working days of any request by it for assistance in determining how to respond to a request for disclosure.

32.3 The Contractor shall and shall procure that its Sub-Contractors shall:

(a) transfer the Request for Information to the Authority as soon as practicable after receipt and in any event within two (2) working days of receiving a Request for Information;

(b) provide the Authority with a copy of all information in its possession or power in the form that the Authority requires within five (5) working days (or such other period as the Authority may specify) of the Authority requesting that information; and

(c) provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to a Request for Information within the time for compliance set out in Section 10 of the FOIA (or Regulation 5 of the Environmental Information Regulations).

32.4 The Authority shall be responsible for determining at its absolute discretion whether the Commercially Sensitive Information and/or any other information:

(a) is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations;

(b) is to be disclosed in response to a Request for Information, and in no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Authority.

32.5 The Contractor acknowledges that the Authority may, acting in accordance with the Secretary of State for Constitutional Affairs' Code of Practice on the discharge of public authorities' functions under Part 1 of the FOIA (issued under section 45 of the FOIA, November 2004), be obliged under the FOIA or the Environmental Information Regulations to disclose information:

(a) without consulting the Contractor, or

(b) following consultation with the Contractor and having taken its views into account.

32.6 The Contractor shall ensure that all Information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Authority to inspect such records as requested from time to time.

32.7 The Contractor acknowledges that any lists or Schedules provided by it outlining Confidential Information are of indicative value only and that the Authority may nevertheless be obliged to disclose Confidential Information in accordance with Clause 32.5.

33 INFORMATION AND CONFIDENTIALITY

33.1 Subject to Clause 33.2 the parties shall keep confidential all matters relating to the contract and shall use all reasonable endeavours to prevent their employees, servants and agents from making any disclosure to any person of any matter relating to the Contract.

33.2 Clause 33.1 shall not apply to:

33.2.1 any information which the disclosing party can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of this Clause;

33.2.2 any disclosure which is required by any law (including any order of a Court of competent jurisdiction) or the rules of any stock exchange or Governmental or regulatory Authority having the force of law;

33.2.3 any disclosure of information which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

33.2.4 any disclosure by the Authority of information relating to the provision of the Services and such other information as may be reasonably required for the purpose of conducting a due diligence exercise to any proposed replacement supplier, its advisers and lenders, should the Authority decide to re-tender the contract; or

33.2.5 any disclosure of information by the Authority to any other Department, Office or Agency of the Government;

33.2.6 any disclosure for the purpose of:

(a) the examination and certification of the Authority's accounts; or

(b) any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Authority has used its resources.

33.3 Where disclosure is permitted under Clause 33.2 the disclosing party shall ensure that the recipient of the information shall be subject to the same obligation of confidentiality as that contained in this Contract.

33.4 The Contractor shall not make use of this Contract or any information issued or provided by or on behalf of the Authority in connection with this Contract otherwise than for the purpose of performing its obligations under this Contract, except with the written consent of the Authority.

33.5 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in the performance of the Contract, the Contractor undertakes to maintain security systems approved by the Authority.

33.6 The Contractor will immediately notify the Authority of any breach of security in relation to Confidential Information and all data obtained in the performance of the Contract and will keep a record of such breaches. The Contractor will use its best endeavours to recover such Confidential Information or data however it may be recorded. The Contractor will co-operate with the Authority in any investigation that the Authority considers necessary to undertake as a result of any breach of security in relation to Confidential Information or data.

33.7 The Authority may require the Contractor to alter any security systems at any time during the Contract Period.

34 AUDIT

34.1 The Contractor shall at all reasonable times (including following termination for whatsoever reason of this Contract) afford to or procure for any auditor (including any auditor carrying out functions under the Audit Commission Act 1998 or the Local Government Act 1999) conducting an internal audit or an external audit, inspection or an audit of Best Value Performance Plans or to or for the Contractor's Representative (or its nominee) access to any records, information and data in the possession or control of the Contractor which in any way relate to or are or have been used in connection with the provision of the Services including (but without limitation) Authority data and information stored on a computer system operated by the Contractor and shall include permission to copy and remove any copies and remove the originals of such Documents.

34.2 The Contractor shall keep and maintain until six years after the Contract has been completed, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Services provided under it, all expenditure reimbursed by the Authority, and all payments made by the Authority. The Contractor shall on request afford the Authority or the Authority's representatives or the Audit Commission such access to the records as may be required by the Authority or the Audit Commission in connection with the Contract.

35 DISPUTES

35.1 If any disputes or differences arise between the parties as to the meaning of the Contract or any matter or thing arising out of or connected with the Contract, then it shall be referred to the determination of an arbitrator to be appointed as sole arbitrator by agreement of the parties whose decision shall be final and conclusive.

35.2 In default of an agreement within twenty one (21) days of the service of one party's written request to concur such appointment, it shall be referred to the President or Vice President for the time being of the Charted Institute of Arbitrators.

35.3 Each party shall be liable to pay to the other damages for any breach of the Contract and all expenses and costs incurred by that party in enforcing its right under the Contract under these conditions

36 AUTHORITY MAY PURCHASE ELSEWHERE

36.1 Nothing in these conditions shall restrain or be held to prevent the Authority from purchasing similar Services from any other person if the Chief Officer shall think fit to do so and the Authority reserve to itself the right of ordering any Services otherwise than from the Contractor.

37 INFORMATION ON RE-TENDERING

37.1 If requested to do so by the Chief Officer, the Contractor shall provide any and all relevant information relating to the Services reasonably required by the authority to enable it to prepare the necessary documentation in respect of any subsequent tendering or re-tendering of the Services. The information required shall be sufficient to enable that Authority to meet its legal obligations and to obtain the best value for money reasonably obtainable in a tendering exercise. (For the avoidance of doubt, this obligation shall extend to all workforce information necessary to enable the Authority to comply with its duties under the Transfer of undertakings (Protection of Employment) Regulations 1981 as amended, if applicable)

37.2 Such information provided pursuant to Clause 37.1 shall be at no cost to the Authority.

38 OFFERS OF EMPLOYMENT

38.1 For the duration of the Contract and for a period of six (6) months after its termination:

38.1.1 The Contractor undertakes not to make offers of employment to or engage any employee or agent of the Authority connected with the Contract without the prior written consent of the Authority; and

38.1.2 The Authority shall not make offers of employment to or engage any employee or agent of the Contractor involved in the Contract without the prior written consent of the Contractor.

38.2 In the event of the Authority giving a Contractor consent to engage, the Authority will charge the Contractor an introduction fee of 30% of the annual salary of the person(s) appointed.

39 FORM OF CONTRACT

39.1 The Contractor shall be deemed to have satisfied himself before submitting his tender as to the accuracy and sufficiency of the rates and prices dated by the Contractor in his tender which shall except insofar as it is otherwise provided in the Contract covered all the Contractor's obligations under the Contract.

39.2 The Contractor shall be deemed to have obtained for himself all necessary information as to risks contingencies and any other circumstances which may reasonably influence or affect the Contractor's tender.

39.3 Until the execution of a formal Contract, the successful tender together with the Authority's written acceptance will form a binding agreement between the Authority and the successful Tenderer.

40 CONTRACT TO PREVAIL

40.1 No conditions terms or stipulations

40.1.1 contained in any letters forms quotations advice notes delivery notes or other documents submitted or otherwise used by the Contractor or

40.1.2 added to the Contract documents by the Contractor or amendments to the Contract documents by the Contractor which are inconsistent with differ from or in any way modify these conditions shall have any effect

41 SERVICE ON NOTICES

41.1 Any notice request order or other communication given in accordance with the Contract will be in writing and will be sufficiently served if served personally on the addressee or sent by first class prepaid post, recorded delivery post, by electronic mail or facsimile transmission to the last known address of the party being served

41.2 If a notice request or order of communication is sent in accordance with Clause 41.1 above subject to evidence of the contrary it shall be deemed to have been received by the addressee on the second business day after posting or successful transmission as the case may be

42 WAIVER

42.1 Failure by the Authority at any time throughout the duration of the Contract to enforce the provisions of the Contract or to require performance by the other party of any of the Contract's provisions shall not be construed as a waiver of any such provision and shall not affect the validity of the Contract or any part of it or the right of the Authority to enforce any of the Contracts provisions in the future

43 VARIATION

43.1 The Services shall be supplied solely in accordance with these conditions. All other contractual terms which in any way add to, vary or contradict these conditions upon which the Contractor may seek to rely or otherwise impose on the Authority shall be excluded and not form part of the Contract (whether or not such other contractual terms post-date these conditions) unless the Authority has specifically agreed in writing to be bound by any of such other contractual terms. A copy of such written variation shall be affixed to the Contract.

44 SEVERANCE

44.1 Whenever and so far as one or more conditions of the Contract are held to be void and unenforceable then the remainder of the conditions of Contract shall continue in force and govern the parties relationship as if the void and unenforceable condition(s) had not formed any part of the Contract

45 INTELLECTUAL PROPERTY

45.1 Any specification supplied by the Authority to the Contractor, or specifically produced by the Contractor for the Authority, in connection with the Contract, together with the copyright, design rights or any other intellectual property rights in the specification / schedule, shall be the exclusive property of the Authority, and the Authority shall be free to effect and be responsible for securing such protection of the design whether by registration in the Register of Designs or otherwise as it sees fit.

45.2 The Contractor shall lend to the Authority all assistance in securing registration of the design in the Register of Designs if required to do so by the Authority. In addition the Contractor shall if required to do so by the Authority execute any assignment of the copyright in such designs complying with the provisions of the Copyright Designs and Patents Act 1998(or any subsequent enactment thereof). However the right of the Authority to require such an assignment of copyright shall

in no way be construed as indication that the copyright in such designs is not already vested in the Authority in accordance with the terms of this Contract.

45.3 All designs, drawing, specifications and information supplied by the Authority in connection with the Contract are confidential, and their use must be strictly confined to the Contractor's own works for the purposes of the Contract. All such designs, drawings, specifications and information and all copies thereof must be returned to the Authority on completion of the Contract.

45.4 The Contractor shall indemnify the Authority against all actions, claims and demands, costs charges and expenses awarded against or incurred by the Authority as a result of or in connection with any claim that the Services provided infringes the patent, registered design, trade mark, copyright or other intellectual property rights of any other person except to the extent that the claim arises from compliance with the specification / schedule.

45.5 The Authority agrees not without the Contractor's prior written consent to alter modify or vary a design supplied by the Contractor to the Authority which is considered by the Contractor to be material to the design or to permit any such design to be altered modified or varied by any other person firm or company.

45.6 It is a condition of the Contract that the Services will not infringe any Intellectual Property Rights of any third party and the Contractor shall during and after the Term on written demand indemnify and keep indemnified the Authority against all actions, suits, claims, demands, losses, charges, damages, costs and expenses and other liabilities which the Authority may suffer or incur as a result of or in connection with any breach of this Clause, except where any such claim relates to:

(a) designs furnished by the Authority;

(b) the use of data supplied by the Authority which is not required to be verified by the Contractor under any provision of the Contract.

45.7 The Authority shall notify the Contractor in writing of any claim or demand brought against the Authority for infringement or alleged infringement of any Intellectual Property Right in materials supplied or licensed by the Contractor. The Contractor shall at its own expense conduct all negotiations and any litigation arising in connection with any claim for breach of Intellectual Property Rights in materials supplied or licensed by the Contractor, provided always that the Contractor:

(a) shall consult the Authority on all substantive issues which arise during the conduct of such litigation and negotiations;

(b) shall take due and proper account of the interests of the Authority; and

(c) shall not settle or compromise any claim without the Authority's prior written consent (not to be unreasonably withheld or delayed).

45.8 The Authority shall at the request of the Contractor afford to the Contractor all reasonable assistance for the purpose of contesting any claim or demand made or action brought against the Authority or the Contractor for infringement or alleged infringement of any Intellectual Property Right in connection with the performance of the Contract and shall be repaid all costs and expenses (including, but not limited to, legal costs and disbursements) incurred in doing so. Such costs and expenses shall not be repaid where they are incurred in relation to a claim, demand or action which relates to the matters in Clause 45.6 (a) and (b).

45.9 The Authority shall not make any admissions which may be prejudicial to the defence or settlement of any claim, demand or action for infringement or alleged infringement of any Intellectual Property Right by the Authority or the Contractor in connection with the performance of the Contract.

45.10 If a claim, demand or action for infringement or alleged infringement of any Intellectual Property Right is made in connection with the Contract or in the reasonable opinion of the Contractor may at its own expense and subject to the consent of the Authority (not to be unreasonably withheld or delayed) either:

(a) modify any or all of the Services without reducing the performance or functionality of the same, or substitute alternative Services of equivalent performance and functionality, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply with any necessary changes to such modified Services or to the substitute services; or

(b) procure a licence to use and provide the Services, which are the subject of the alleged infringement, on terms which are acceptable to the Authority.

45.11 At the termination of the Contract the Contractor shall at the request of the Authority immediately return to the Authority all materials, work or records held, including any back-up media.

45.12 The provisions of this Clause shall apply during the continuance of the Contract and indefinitely after its expiry or termination.

46 THE CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999

46.1 No person who is not a Party to the Contract (including without limitation any employee, officer, agent, representative, or Sub-Contractor of either the Authority or the Contractor) shall have any right to enforce any term of the Contract, which expressly or by implication, confers a benefit on him without the prior agreement in writing of both Parties, which agreement should specifically refer to this Clause 46.

This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.

47 PUBLICITY

47.1 The Contractor shall not advertise or publicly announce that it is supplying services or carrying out work for the Authority without the prior written consent of the Authority, such consent not to be unreasonably withheld.

47.2 Except with the written consent of the other party, such consent not to be unreasonably withheld or delayed, neither party shall make any press announcements or publicise this Contract in any way.

47.3 Both parties shall take all reasonable steps to ensure the observance of the provisions of Clause 47.2 by all their servants, employees, agents and consultants. The Contractor shall take all reasonable steps to ensure the observance of the provisions of Clause 47.2 by its Sub-Contractors.

47.4 Notwithstanding the provisions of Clause 47.2, the Authority shall be entitled to publicise this Contract in accordance with any legal obligation upon the Authority, including any examination of this Contract by the National Audit Office pursuant to the National Audit Act 1983 or otherwise.

48 WELSH LANGUAGE ACT

48.1 The Contractor shall comply with the provisions of the Welsh Language Act 1993 (or as amended from time to time) and all other relevant legislation and statutory requirements.

49 ENVIRONMENTAL CONSIDERATIONS

49.1 The Contractor shall comply in all material aspects with applicable environmental laws and regulations in force from time to time in relation to the products/services the subject of the contract. Where the provisions of any such legislation are implemented by the use of voluntary agreements or codes of practice, the Contractor shall comply with such agreements or codes of practice as if they were incorporated into English and Welsh law subject to those voluntary agreements being cited in the tender documentation. Without prejudice to the generality of the foregoing, the Contractor shall:-

49.1.1 comply with all reasonable stipulations of the Authority aimed at minimising the packaging in which the products the subject of the contract, or any products supplied by the Contractor to the Authority as part of performance of the Services, are supplied:

49.1.2 promptly provide such data as may reasonably be requested by the Authority from time to time regarding the weight and type of packaging according to the material type used in relation to all products supplied to the Authority under or pursuant to the contract;

49.1.3 comply with all obligations imposed on it in relation to the products/Services the subject of the contract by the Packaging Waste Regulations 1997 (or any other equivalent legislation giving effect in any part of the European Economic Area to the Packaging and Packaging Waste Directive 94/62/EC);

49.1.4 label all products supplied to the Authority under the contract, and the packaging of those products, to highlight environmental and safety information as required by applicable UK and EU legislation;

49.1.5 unless otherwise agreed with the Authority, insofar as any products supplied under the Contract compromise or include electrical or electronic equipment, manage the said equipment and associated consumables at end of life to facilitate recovery, treatment and recycling and provide any information which the Authority may reasonably require from time to time regarding the costs of such activity;

49.1.6 promptly provide all such information regarding the environmental impact of any products supplied or used under the Contract as may reasonably be required by the Authority to permit informed choices by end users;

49.1.7 where goods are imported into the United Kingdom then for the purposes of the Producer Responsibility Obligations (Packaging Waste) Regulations 1997 (as amended) the Contractor shall assume the rolled-up obligations for all the activities performed outside the United Kingdom in relation to the goods and the packaging which is used for the containment, protection, handling, delivery and presentation of the goods in addition to any other obligations he may have pursuant to the said Regulations.

49.2 The Contractor shall meet all reasonable requests by the Authority for information evidencing the Contractor's compliance with the provisions of this Clause.

49.3 The Contractor shall, when working on the Authority's premises, perform the Contract in accordance with the Authority'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.

50 COMMUNICATIONS

50.1 Except as otherwise expressly provided no communication from one party to the other shall have any validity under this Contract unless made in writing by or on behalf of the Contractor. The parties agree that e-mail will be considered a satisfactory form of communication for the purposes of this Clause.

50.2 Any notice whatsoever which either party hereto is required or authorised by this Contract to give or make to the other shall be given or made either by letter, delivered by hand or by post, or by facsimile transmission confirmed by post, or e-mail addressed to the other party. If that letter is not returned as being undelivered that notice shall be deemed for the purposes of this Contract to have been given or made upon delivery to the addressee for a letter delivered by hand, after two (2) days for a letter delivered by post or four (4) hours for a facsimile transmission or e-mail.

51 ENTIRE AGREEMENT

51.1 This Contract constitutes the entire understanding between the parties relating to the subject matter of this Contract and, save as may be expressly referred to or referenced herein, supersedes all prior representations, writings, negotiations or understandings with respect hereto, except in respect of any fraudulent misrepresentation made by either party.

52 DAMAGE

52.1 Where the Contractor causes damage to any thing in the performance of this Contract the Authority may direct the Contractor to make good the said damage forthwith at the Contractor's own risk and expense

53 MISTAKES IN INFORMATION

53.1 The Contractor shall be responsible for the accuracy of all drawings, documentation and information supplied to the Authority by the Contractor in connection with the provision of the Services and shall pay the Authority any extra costs occasioned by any discrepancies, errors or omissions therein.

54 CONFLICTS OF INTEREST

54.1 The Contractor shall take appropriate steps to ensure that neither the Contractor nor any employee, servant, agent, supplier or Sub-Contractor is placed in a position where in the reasonable opinion of the Authority there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor or such persons and the duties owed to the Authority under the provisions of the Contract. The Contractor will disclose to the Authority full particulars of any such conflict of interest which may arise.

54.2 The provisions of this Clause shall apply during the continuance of the Contract and for a period of two (2) years after its termination.

55 WARRANTIES AND REPRESENTATIONS

55.1 The Contractor warrants and represents that:

(a) the Contractor has full capacity and authority and all necessary consents (including, but not limited to, where its procedures so require, the consent of its parent company) to enter into and perform the Contract and that the Contract is executed by a duly authorised representative of the Contractor;

(b) the Contractor shall discharge its obligations hereunder with all due skill, care and diligence including but not limited to Good Industry Practice;

(c) all obligations of the Contractor pursuant to the Contract shall be performed and rendered by appropriately experienced, qualified and trained Staff with all due skill, care and diligence;

(d) the Contractor 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.

56 GOVERNING LAW & CHANGE OF LAW

56.1 Each of the parties confirm that by entering into the Contract they agree to be legally bound by its terms and conditions

56.2 The terms and conditions contained in the Contract shall be construed in accordance with and be governed by the laws of England and Wales and all parties agree to submit to the exclusive jurisdiction of the Courts of England and Wales

56.3 The Contractor shall neither be relieved of its obligations to perform the Services in accordance with the terms of the Contract nor be entitled to an increase in the Price and/or any charges payable by the Contractor as the result of:

(a) a General Change in Law; or

(c) 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 in the Official Journal of the European Union or otherwise.

56.4 If a Specific Change in Law occurs or will occur during the Term (other than those referred to in Clause 56.3) or during any agreed extension period, the Contractor shall notify the Authority of the likely effects of that change, including;

(a) whether any change is required to the Services, the Price or the Contract; and

(b) 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.

56.5 As soon as practicable after any notification in accordance with Clause 56.4 the Parties shall discuss and agree the matters referred to in that clause and any ways in which the Contractor can mitigate the effect of the Specific Change of Law, including:

(a) 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 Sub-Contractors;

(b) demonstrating that a foreseeable Specific Change in Law had been taken into account by the Contractor before it occurred;

(c) giving evidence of how the Specific Change in Law has affected the cost of providing the Services; and

(d) demonstrating that any expenditure that has been avoided has been taken into account in amending the Price.

57 TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS (TUPE) COMPLIANCE ON TERMINATION

57.1 HANDOVER ON TERMINATION

57.1.1 During the 6 months preceding the expiry of this Contract or after the Authority has given notice to terminate this Contract or at any other time as directed by the Authority, and within 15 working days of being so requested by the Authority, the Contractor shall fully and accurately disclose to the Authority any and all information in relation to all personnel engaged in providing the Services including all Relevant Employees who are to transfer as a consequence of a Relevant Transfer as the Authority may request, in particular but not necessarily restricted to any of the following:

(a) a list of employees employed by the Contractor;

(b) a list of agency workers, agents and independent contractors engaged by the Contractor;

(c) the total payroll bill (i.e. total taxable pay and allowances including employer's contributions to pension schemes) of those personnel;

(d) full information about the terms and conditions of employment of the Relevant Employees, their age, salary, date continuous employment commenced and (if different) the commencement date, enhancement rates, any other factors affecting their redundancy entitlement and any outstanding claims arising from employment.

(e) full information about the other terms and conditions on which the affected staff are employed (including but not limited to their working arrangements), or about where that information can be found; and

(f) details of pensions entitlements if any; and

(g) job titles of the members of staff affected and the qualifications required for each position

57.1.2 The Contractor shall warrant the accuracy of all the information provided to the Authority pursuant to Clause 57.1.1 and authorises the Authority to use any and all of the information as it may consider necessary for the purposes of its business or for informing any tenderer for any services which are substantially the same as the Services (or any part thereof).

57.1.3 During the 6 months preceding the expiry of this Contract or where notice to terminate this Contract for whatever reason has been given, the Contractor shall allow the Authority or such other persons as may be authorised by the Authority to communicate with and meet the Relevant Employees and their trade union or employee representatives as the Authority may reasonably request.

57.1.4 During the 6 months preceding the expiry of this Contract or where notice to terminate this Contract for whatever reason has been given, the Contractor shall not without the prior written consent of the Authority unless bona fide in the normal course of business:

(a) vary or purport or promise to vary the terms and conditions of employment of any employee employed in connection with the Services;

(b) increase or decrease the number of employees employed in connection with the Services; or

(c) assign or redeploy any employee employed in connection with the Services to other duties unconnected with the Services. And shall permit the Authority upon reasonable written request access to documents and information

relating to the changes made in (a) to (c) above showing the reasons for those changes.

57.1.5 Where practical and possible the Authority may collect the employee liability information required in Clause 57.1.1 above from the Contractor and provide them to the new contractor appointed by the Authority. The Authority does not warrant the accuracy of the information supplied and liability for the accuracy of the information remains with the Contractor as transferor.

57.2 TUPE INDEMNITIES

57.2.1 The Contractor shall indemnify the Authority and any new contractor appointed by the Authority and keep the Authority and any new contractor appointed by the Authority indemnified in full from and against all direct, indirect or consequential liability, loss, damages, injury, claims, costs and expenses (including legal expenses), which the Authority and any new contractor appointed by the Authority shall take all reasonable steps to mitigate, awarded against or incurred or paid by the Authority or any new contractor appointed by the Authority as a result of or in connection with the employment or termination of employment of any employee of the Contractor during any period prior to the date of expiry or termination of this Contract and liability with regard to information not included in the handover information required in Clause 57.1.1 above.

57.2.2 The Contractor is obliged to provide employee liability information under Regulation 11 of the Regulations and failure to comply with those requirements will incur penalties as specified by the Regulations.

57.2.3 The Contractor shall liaise with the new contractor appointed by the Authority as to the measures the new contractor appointed by the Authority envisages taking with respect to the employees in order to carry out proper consultation under Regulation 13 of the Regulations.