

[Supplier name]

Supplier address as appears on Companies House]

Company / LLP Registration No: ??????????

Attn: [insert Supplier contact name]

Date: [Insert date]

Our ref: [Insert Council's
reference]

Dear Sirs,

Award of contract for the supply of [insert description of goods]

Following your tender for the supply of [insert short description of goods] to Northamptonshire County Council (the "Council"), we are pleased to award this contract to you.

This letter ("Award Letter") and its Annexes set out the terms of the contract between the Council and [insert Supplier's name] as the "Supplier" for the provision of the Goods.

Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions of contract set out in Annex 1 to this Award Letter (the "Conditions"). In the event of any conflict between this Award Letter and the Conditions, this Award Letter shall prevail. Please do not attach any other terms and conditions to this Award Letter as they will not be accepted by the Council and may delay the conclusion of the Agreement.

For the purposes of the Agreement, the Council and the Supplier agree as follows:

- 1) The charges for the Goods shall be as set out in Annex 2.
- 2) The specification of the Goods to be supplied is as set out in Annex 3.
- 3) The Term shall commence on [insert the start date of the contract] (the "Commencement Date") and shall continue until the Expiry Date, being [insert the date on which the contract will end] subject to early termination.

- 4) The addresses for notices of the parties are:

Northamptonshire County Council

One Angel Square

Angel Square

Northampton

NN1 1ED

Attention: [insert title]

Email: [insert email address]

Supplier

[insert name
and address of Supplier]

Attention: [insert title]

Email: [insert email address]

- 5) The following persons are Key Personnel for the purposes of the Agreement:

Name

Title

This section must be completed (if applicable) with the names of key personnel within the suppliers organisation that will be delivering the service.

- 6) For the purposes of the Agreement suppliers will need to comply with the Council's relevant policies including the Whistleblowing Policy which can be accessed via the Council website.

- 7) The Council may require the Supplier to ensure that any person who attends an Establishment in accordance with this Agreement has undertaken a Disclosure and Barring Service check. For the purpose of any attendances at Establishments where Children's services or Vulnerable Persons services take place these shall be Enhanced Checks. The Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to attending an Establishment in connection with the supply of Goods, or is of a type otherwise advised by the Council (each such conviction a "**Relevant Conviction**"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) attends any Establishment in connection with this Agreement.
- 8) **[Delete this para 8 if the Supplier is NOT processing personal data]or[If it is processing personal data ensure the table in the RFQ/Specification is completed to ensure the extent of the processing is correctly specified.]**The Council and the Supplier acknowledge that in order to supply the Goods the Supplier is processing Personal Data on behalf of the Council. The extent of the permitted processing is set out in the table in Annex 3. The Supplier shall comply with any further written instructions from the Council with respect to Data Processing and the table in Annex 3 shall be updated accordingly.

Payment

All invoices must be sent, quoting a valid purchase order number ("**PO Number**"), to: Cambridgeshire County Council, Processing Operations Team, OCT1201, Shire Hall, Castle Hill, Cambridge, CB3 0AP or by email to ncc.invoices@cambridgeshire.gov.uk.

To avoid delay in payment it is important that the invoice is compliant and that it includes a valid PO Number, PO Number item number (if applicable) and the details (name and telephone number) of your Council contact (i.e. Contract Manager). Non-compliant invoices will be sent back to you, which may lead to a delay in payment.

Insurance

When you return the signed letter as detailed below please also provide documentary evidence that you have the required insurance cover as required by the Conditions.

Liaison

For general liaison your contact will be **[insert Council's Representative name and contact details]** or, in their absence, **[insert secondary name and contact details]**.

We thank you for your co-operation to date, and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Goods. Please confirm your acceptance of the award of this contract by signing and returning the enclosed copy of this letter through Intend **within 7 days** from the date of this letter. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this contract.

Yours faithfully,

Signature:

Signed for and on behalf of Northamptonshire County Council

Name: **[insert name]**

[Insert job title]

We accept the terms set out in this letter and its Annexes, including the Conditions.

Signed for and on behalf of **[insert name of Supplier]**

Name: **[insert name]**

[insert job title]

Signature:

Date: **[insert date]**

Annex 1

Terms and Conditions of Contract for Goods

1. DEFINITIONS:

1.1. In this Agreement unless the context otherwise requires the definitions set out below shall apply.

“Agreement” the Award Letter, these Conditions and the other annexes to the Award Letter;

“Council’s Representative” the Council’s Representative specified in the Award Letter;

“Commencement Date” the commencement date specified in the Award Letter;

“Controller, Processor, Data Subject, Personal Data, Personal Data Breach, Data Protection Officer” has the same meaning as set out in the GDPR;

“Data Protection Legislation” (i) the General Data Protection Regulation (Regulation (EC) 2016/679 (**GDPR**), the Law Enforcement Directive (Directive (EU) 2016/680 (**LED**) and any national implementing laws, as amended from time to time, (ii) the Data Protection Act 2018 (**DPA 2018**) to the extent that it relates to the processing of personal data and privacy (iii) all applicable law about the personal data and privacy, including in each of (i), (ii) and (iii) all relevant regulatory policy, mandatory guidance and codes of practice;

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

“Data Subject Request” a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to

	access their Personal Data;
“Data Protection Impact Assessment”	an assessment by the Supplier of the impact of the envisaged processing on the protection of Personal Data;
“Establishment”	the delivery location identified by the Council in writing from time to time;
“Force Majeure Event”	any cause materially affecting the supply of the Goods under the Agreement arising from any act, events, omissions, happenings or non-happenings beyond the parties reasonable control including, without limitation, acts of God, war, riot, fire, flood or any disaster affecting either of the parties but will not mean any labour dispute between the Supplier and the Supplier’s employees, agents or sub-contractors;
“Good Industry Practice”	standards, practices, methods and procedures conforming to the Laws and with all due skill and care, diligence, prudence and foresight which would be expected from a skilled and appropriately experienced, qualified and trained person or body engaged in a similar type of undertaking under the same or similar circumstances;
“Goods”	the goods (or any part of them) specified in Annex 3;
“Joint Controllers”	where two or more Controllers jointly determine the purpose and means of processing;
“Laws”	any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body of which the Supplier is bound to comply;
“Local Safeguarding Policy and Procedures”	the inter-agency safeguarding children and adults procedures of the county of Northamptonshire ;
“Modern Slavery Helpline”	means the mechanism for reporting suspicion, seeking help or advice and information on the subject of modern slavery available online at https://modernslaveryhelpline.org/report or by telephone on 08000 121 700;
“Price”	the price as identified within Annex 2, exclusive of any applicable Tax, payable to the Supplier by the Council under the Agreement for the full and proper performance by the Supplier of its obligation;
“Prohibited Act”	<p>(a) offering, giving or agreeing to give to any servant of the Council any gift or consideration of any kind as an inducement or reward:</p> <ul style="list-style-type: none"> (i) for doing or not doing (or for having done or not having done) any act in relation to the obtaining or performance of this Agreement or any other agreement with the Council; or (ii) for showing favour or disfavour to any person in relation to

this Agreement or any other agreement with the Council;

(b) committing any offence:

- (i) the Local Government Act 1972 and or the Bribery Act 2010; or
- (ii) under legislation creating offences in respect of fraudulent acts; or
- (iii) at common law in respect of fraudulent acts in relation to this Agreement or any other agreement with the Council; or
- (iv) defrauding or attempting to defraud or conspiring to defraud the Council;
- (v) any action that may reasonably be considered to be to the detriment of the Council and or its end user's welfare, either by positive action or by omission. Such action shall include but is not limited to; breach of the law, related to health, safety and or care, safeguarding, abuse, sexual allegations and or misconduct; financial malpractice or business continuity failure.

“Proscribed Act”

the following constitute Proscribed Acts:

(a) if a person commits

- (i) an offence of cheating the public revenue; or
- (ii) an offence under the Law of any part of the United Kingdom consisting of being knowingly concerned in, or in taking steps with a view to, the fraudulent evasion of tax;

(b) committing any offence:

- (i) under the Criminal Finances Act 2017;
- (ii) under the Taxes Management Act 1970;
- (iii) under the Value Added Tax Act 1994;
- (iv) under the Customs and Excise Management Act 1979;
- (v) under any of the Finance Acts;
- (vi) at common law concerning any form of fraudulent conduct which results in depriving the HMRC of money to which it is entitled.

“Protective Measures”

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

**“Regulated Activity” or
“Regulated Activities”**

in relation to children shall have the same meaning as set out in Part 1 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006 and in relation to vulnerable adults shall have the same meaning as set out in Part 2 of Schedule 4 to the Safeguarding Vulnerable Groups Act 2006.

“Safety Legislation”

the Health and Safety at Work etc. 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 2005, the Control of Substances Hazardous to Health Regulations 2002 and all other legislation, codes of practice and guidance from time to time amended (including subordinate legislation and European Community legislation to the effect that it has direct effect on member states) imposing legal requirements with respect to health and safety at work and/or the safety of any equipment used in the supply of Goods and the health and safety of the users of such equipment;

“Staff” all persons employed by the Supplier to perform its obligations under the Agreement together with the Supplier’s servants, agents, suppliers and sub-contractors used in the performance of its obligations under the Agreement;

“Sub-Processor” any third party appointed to process Personal Data on behalf of the Supplier related to this Agreement

“Term” from the Commencement Date to the Expiry Date, with no option to extend but subject always to review or such lesser period as a result of the Agreement being terminated earlier in accordance with the provisions of this Agreement;

“Working Day” a day (other than Saturday, Sunday or an official public bank holiday)

1.2. The interpretation and construction of the Agreement shall be subject to the following provisions:

1.2.1. words importing the singular meaning include where the context so admits the plural meaning and vice versa;

1.2.2. words importing the masculine include the feminine and neuter;

1.2.3. reference to a clause is a reference to the whole of that clause unless stated otherwise;

1.2.4. references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;

1.2.5. references to any party shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

1.2.6. the words “include”, “included”, “includes” and “including” are to be construed

as if they were immediately followed by the words “without limitation”; and

- 1.2.7. headings are included in the Agreement for ease of reference only and shall not affect the interpretation or construction of the Agreement.

2 DURATION

- 2.1 The Agreement and the rights and obligations of the parties shall take effect on the Commencement Date and shall continue until the expiry of the Term or earlier termination of the Agreement.

3 NOTICES

- 3.1 Any notice, request, demand, consent or approval given under or in connection with this Agreement must be given in writing. Any such notice, request, demand, consent or approval shall be sent to the registered office or principal business address of either party and, if sent by post, shall be deemed to have been received on the second Working Day following the date of posting.

4. THE SUPPLY OF GOODS

- 4.1 In the supply of Goods, the Supplier shall ensure that throughout the Term of this Agreement that the Goods shall:

- 4.1.1. comply with the terms of this Agreement;
- 4.1.2. correspond with their description and any applicable specifications or requirements included or referred to in the Agreement;
- 4.1.3. be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Council, expressly or by implication, and in this respect the Council relies on the Supplier's skill and judgment;
- 4.1.4. where applicable, be free from defects in design, materials and workmanship and remain so for twelve (12) months after delivery;
- 4.1.5. operate and comply with all applicable Good Industry Practice and applicable Laws relating to the manufacture, labelling, packaging, storage, handling and the supply of Goods;

- 4.1.6. carry out all reasonable directions of the Council's Representative;
 - 4.1.7. use its reasonable endeavours to secure and achieve continuous improvement in the supply of Goods during the Term;
 - 4.1.8. save as the Council may otherwise direct, the Supplier is deemed to have inspected the Establishments before commencing and during the supply of Goods and to have made appropriate enquiries so as to be satisfied in relation to all matters connected with the performance of its obligations under the Agreement and accordingly no claim by the Supplier for additional payment or extension of time will be allowed on the grounds of any matter relating to the Establishments;
 - 4.1.9. understand fully the risk potential of the type of Establishment in which it is supplying Goods. The Supplier must perform a thorough risk assessment exercise, and ensure that all of its operatives are particularly diligent and safety conscious;
 - 4.1.10. if given access to, or occupation of, an Establishment which may be granted to the Supplier from time to time shall be on a non-exclusive licence basis free of charge. The Supplier shall use the Establishments solely for the purpose of performing its obligations under the Agreement and shall limit access to the Establishment to such Staff as is necessary for that purpose. The Supplier shall co-operate (and ensure that its Staff co-operate) with such other persons working concurrently at the Establishment as the Council may reasonably request;
 - 4.1.11. be responsible for the accuracy of all information supplied to Council and shall pay the Council any extra costs occasioned by any discrepancies, errors or omissions therein; and
 - 4.1.12. notify the Council in writing immediately on learning of any relationship or potential conflict of interest that might influence or be perceived to influence the supply of Goods.
- 4.2. The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under this Agreement.

5 DELIVERY OF GOODS

5.1 The Supplier shall ensure that:

- 5.1.1. the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

- 5.1.2. each delivery of the Goods is accompanied by a delivery note which shows the date of the order, the order number (if any), the type and quantity of the Goods (including the code number of the Goods (where applicable)), special storage instructions (if any) and, if the Goods are being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and
 - 5.1.3. if the Supplier requires the Council to return any packaging material for the Goods to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall only be returned to the Supplier at the cost of the Supplier.
- 5.2 The Supplier acknowledges and agrees that time of delivery is of the essence and shall deliver the Goods:
 - 5.2.1. on the date specified in the order;
 - 5.2.2. to the Council's premises or such other location as is set out in the order or as instructed by the Council before delivery to the Establishment; and
 - 5.2.3. during the Council's normal hours of business, or as instructed by the Council.
- 5.3 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Establishment.
- 5.4 If the Supplier:
 - 5.4.1. delivers less than ninety five (95) per cent of the quantity of Goods ordered, the Council may reject the Goods; or
 - 5.4.2. delivers more than one hundred and five (105) per cent of the quantity of Goods ordered, the Council may at its sole discretion reject the Goods or the excess Goods,and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Council accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.
- 5.5 The Supplier shall not deliver the Goods in instalments without the Council's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any defect in an instalment shall entitle the Council to the remedies set out in clause 18.
- 5.6 Title and risk in the Goods shall pass to the Council on completion of delivery.

6. REMEDIES

6.1 If the Goods are not delivered in accordance with clause 5, then without limiting any of its rights or remedies, and whether or not it has accepted the Goods, the Client may exercise any one or more of the following remedies:

- 6.1.1. to terminate the Agreement;
- 6.1.2. to reject the Goods (in whole or in part) and return them to the Supplier at the Supplier's own risk and expense;
- 6.1.3. to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods;
- 6.1.4. to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;
- 6.1.5. to recover from the Supplier any costs incurred by the Client in obtaining substitute goods from a third party; and
- 6.1.6. to claim damages for any other costs, loss or expenses incurred by the Client which are in any way attributable to the Supplier's failure to carry out its obligations under the Agreement.

6.2 These Conditions shall apply to any repaired or replacement Goods supplied by the Supplier.

6.3 The Client's rights and remedies under these Conditions are in addition to its rights and remedies implied by statute and common law.

7. PRICE AND PAYMENT

7.1. In consideration of the supply of Goods, the Council shall pay the Price for the Goods in accordance with the Agreement and the Price shall be inclusive of the costs of packaging, insurance and carriage of the supply of Goods, unless otherwise agreed in writing by the Council. No extra charges shall be effective unless agreed in writing and signed by the Council.

7.2. The Council shall pay the undisputed sums due to the Supplier in within thirty (30) days of receipt of correctly rendered invoice, submitted on or at any time after completion of delivery and to the reasonable satisfaction of the Council to a bank account nominated in writing by the Supplier. Each invoice shall include such supporting information required by the Council to verify the accuracy of the invoice, including but not limited to the relevant purchase order number;

- 7.3. The Council may reduce payment in respect of any Goods which the Supplier has either failed to supply or has provided inadequate Goods;
- 7.4. All amounts payable by the Council under the Agreement are exclusive of amounts in respect of valued added tax chargeable from time to time (the "VAT"). Where any taxable supply for VAT purposes is made under the Agreement by the Supplier to the Council, the Council shall, on receipt of a valid VAT invoice from the Supplier, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods at the same time as payment is due for the supply of the Goods.
- 7.5. If the Council fails to pay any amount properly due and payable by it under the Agreement, the Supplier shall have the right to charge interest on the overdue amount at the rate of three (3) per cent per annum above the base rate for the time being of BANK OF ENGLAND accruing on a daily basis from the due date up to the date of actual payment, whether before or after judgment. This clause shall not apply to payments that the Council disputes in good faith.
- 7.6. The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in supplying Goods, and the Supplier shall allow the Council to inspect such records at all reasonable times on request.
- 7.7. Payment by the Council shall be without prejudice to any claims or rights which the Council may have against the Supplier and shall not constitute any admission by the Council as to the performance by the Supplier of its obligation hereunder.
- 7.8. If either party owes the other money under the Agreement, then the party who is owed the money may set off any such sum against any money it subsequently owes to the other under the Agreement.

8. STATUTORY RIGHTS

- 8.1. Nothing in these conditions shall affect in any way the statutory rights of the Council under the Sale of Goods Act 1979, the Supply of Goods and Services Act 1982 or any subsequent amending or consolidating legislation.
- 8.2. A party who is not a party to this Agreement is not entitled to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999 except where this Agreement expressly provides otherwise.
- 8.3. The Supplier shall comply in all respects with the law and all applicable rules and regulations in all matters arising in the performance of or in connection with the Agreement.

9. BRIBERY, CORRUPT GIFTS, FRAUD AND TAX EVASION

- 9.1. As soon as either party becomes aware of or suspects the commission of any Prohibited Act and / or any Proscribed Act in respect of the supply of Goods it will notify the other party.
- 9.2. In circumstances where a person employed by the Supplier is reasonably suspected of having committed a Prohibited Act and / or a Proscribed Act the Supplier will provide to the Council such information as is reasonable to satisfy the Council that appropriate action has been taken to safeguard the Establishment and or its users and or the Council.

10. EQUALITIES

- 10.1. The Supplier 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 and without prejudice to the generality of the foregoing the Supplier shall not unlawfully discriminate within the meaning and scope of the Human Rights Act 1998 or, the Equality Act 2010 when implemented or other relevant legislation, or any statutory modification or reenactment thereof.
- 10.2. The Supplier shall take all reasonable steps to secure the observance of clause 10.1 by all servants, employees or agents of the Supplier and all suppliers and sub-contractors employed in the execution of the Agreement.

11. SAFEGUARDING

- 11.1. Where the supply of Goods under this Agreement is related to the provision of a Regulated Activity, the Supplier shall:
 - 11.1.1. ensure that all individuals who attend Establishments are subject to a valid enhanced disclosure check undertaken through the Disclosure and Barring Service including a check against the adults' barred list or the children's barred list, as appropriate;
 - 11.1.2. monitor the level and validity of the checks under this clause 11.1 for each member of Staff;
 - 11.1.3. operate policies and procedures on personnel matters for its Staff. These should include appropriate arrangements for recruitment, checks for suitability, levels of qualification and/or experience for specific posts, training and development, and supervisory, disciplinary and grievance procedures, having regard to the nature of the Agreement. Copies of policies and procedures must be made available to the Council on request;

- 11.1.4. not employ any Staff to attend Establishments where Regulated Activities are carried out who appear unsuitable as a result of information received from the checks;
- 11.1.5. comply with the Public Interest Disclosure Act 1998 and comply with the Council's whistleblowing policy and encourage its Staff to report any incidents of malpractice within the provision of the Agreement;
- 11.1.6. ensure that all Staff are aware of the Local Safeguarding Policy and Procedures and will ensure that an up to date copy of the Local Safeguarding Policy and Procedures;
- 11.1.7. have an internal policy for safeguarding vulnerable adults and children which is compatible to the Local Safeguarding Policy and Procedures;
- 11.1.8. ensure that allegations, suspicions and incidents of abuse be followed up promptly by the Supplier in accordance with the Local Safeguarding Policy and Procedures;
- 11.1.9. ensure there are robust procedures for responding to suspicion or evidence of abuse and ensure that they follow-up concerns and pass relevant details to the Council immediately;
- 11.1.10. immediately supply the Council with any information that it reasonably requests to enable it to be satisfied that the obligations of this clause 11 have been met.

12. HEALTH AND SAFETY

- 12.1. The Supplier and its entire Staff (or persons, officer, agent, representative, or sub- contractor) employed by it will throughout the Term shall fully comply with the requirements of Safety Legislation;
- 12.2. The Supplier shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement.
- 12.3. While on the Establishment, the Supplier shall comply with any health and safety measures implemented by the Council and or the Establishment in respect of Staff and other persons working there.
- 12.4. The Supplier shall notify the Council immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Establishment where that incident causes any personal injury or damage to property which could give rise to personal injury.
- 12.5. The Supplier shall comply with the requirements of Safety Legislation 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 Establishment in the performance of its obligations under the Agreement.

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

13. DATA PROTECTION LEGISLATION

13.1 This clause 13 applies where the Supplier is processing Personal Data as part of the supply of the Goods. The Parties acknowledge that for the purposes of Data Protection Legislation the Council is the Controller and Supplier is the Processor. The only processing that the Supplier is authorised to do by the Council is set out in the table on data protection in Annex 3 and may not be determined by the Supplier.

13.2 The Supplier shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.

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

- a) a systematic description of the envisaged processing operations and the purpose of the processing;
- b) an assessment of the necessity and proportionality of the processing operations in relation to the supply of the Goods;
- c) an assessment of the risks to the rights and freedoms of Data Subjects; and
- d) the measures envisaged to address the risks, including safeguards, security measures and mechanisms to ensure the protection of Personal Data

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

- a) process the Personal Data only in accordance with this clause and Annex 3 unless the Supplier is required to do otherwise by law. If it is so required the Supplier shall promptly notify the Council before processing the Personal Data unless prohibited by law.
- b) ensure that it has in place Protective Measures, which are appropriate to protect against a Data Loss Event which the Council may reasonably reject (but failure to reject shall not amount to the approval by the Council of the adequacy of the Protective Measures), having taken account of the:
 - i. nature of the data to be protected.

- ii. harm that might result from a Data Loss Event
 - iii. state of technological development; and
 - iv. cost of implementing any measures;
- c) ensure that:
 - i. the Supplier's Personnel do not process Personal Data except in accordance with this Agreement.
 - ii. it takes all reasonable steps to ensure the reliability and integrity of Personnel who gave access to the Personal Data and ensure that they:
 - A. are aware of and comply with the Supplier's duties under this clause;
 - B. are subject to appropriate confidentiality undertakings with the Supplier or any Sub-Processor;
 - C. are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this agreement; and
 - D. have undergone adequate training in the use, care, protection and handling of Personal Data; and
- d) not transfer Personal Data outside of the EU unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:
 - i. the Council or the Supplier has provided appropriate safeguards in relation to the transfer (whether in accordance with the GDPR Article 46 or Law Enforcement Directive (Directive (EU) 2016/680) as determined by the Council;
 - ii. the Data Subject has enforceable rights and effective legal remedies;
 - iii. the Supplier complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is

transferred (or, if it is not so bound, uses its best endeavours to assist the Supplier in meeting its obligations); and

- iv. the Supplier complies with any reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;
- e) at the written direction of the Council, delete or return Personal Data (and any copies of it) to the Council on termination of the Agreement unless the Supplier is required by law to retain the Personal Data.

13.5 Subject to clause 13.6, the Supplier shall notify the Council immediately if it;

- a) receives a Data Subject Request (or purported Data Subject Request);
- b) receives a request to rectify, block or erase any Personal Data;
- c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- d) receives any communication from the Information Commissioner or any other regulatory Council in connection with Personal Data processed under this Agreement.
- e) receives a request from any third Party for disclosure of Personal Data where compliance with such a request is required or purported to be required by law; or
- f) becomes aware of a Data Loss Event.

13.6 The Supplier's obligation to notify under clause 13.5 shall include the provision of further information to the Council in phases, as details become available.

13.7 Taking into account the nature of the processing, the Supplier shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause 13.5 (and within the timescales reasonably required by the Council) including by promptly providing:

- a) the Council with full details and copies of the complaint, communication or request;
- b) such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Request within the relevant timescales set out in the Data Protection Legislation;
- c) assistance as requested by the Council following any Data Loss Event

- d) assistance as requested by the Council with respect to any request from the Information Commissioners Office, or any consultation by the Council with the Information Commissioners Office.

13.8 The Supplier shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Supplier employs fewer than 250 staff, unless.

- a) The Council determines the processing is not occasional;
- b) The Council determines the processing includes special categories of data referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences related to Article 10 of the GDPR; and
- c) The Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects

13.9 The Supplier shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.

13.10 The Supplier shall designate a data protection officer if required by the Data Protection Legislation.

13.11 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:

- a) Notify the Council in writing of the intended Sub-processor and processing;
- b) Obtain the written consent of the Council;
- c) Enter into a written agreement with the Sub-processor which gives effect to the terms set out in this clause 13 such that they apply to the Sub-Processor; and
- d) Provide the Council with such information regarding the Sub-Processor as the Council may reasonably require.

13.12 The Supplier shall remain fully liable for all acts or omissions of any Sub-Processor.

13.13 The Council, may at any time on not less than thirty (30) Working Days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses to similar terms forming part of an applicable certification scheme (which shall apply when incorporated by attachment to this agreement)

13.14 The Parties agree to take account of any guidance issued by the Information Commissioner's Office. The Council may on not less than thirty (30) Working Days' notice to the Supplier amend this agreement to ensure that it complies with any guidance issued by the Information Commissioner's Office.

13.15 Where the Parties include two or more Joint Controllers as identified in the Specification or otherwise required by the Council the Parties shall enter into a Joint Controller agreement to reflect their responsibilities in relation to Personal Data.

13.16 This clause 13 shall survive the termination or early expiry of this Agreement.

14. FREEDOM OF INFORMATION

14.1. The Supplier recognises the Council's current and future obligations under the Freedom of Information Act 2000 and any codes of practice issued by the Government and the appropriate enforcement agencies. The Supplier will comply with this legislation in so far as it places obligations upon the Council in the performance of its obligations under any contractual arrangement entered into. The Supplier will provide such assistance and support which may be requested from time to time by the Council for the purposes of enabling or assisting the Council to comply with the legislation.

14.2. In the event of a request made on the Council for access to information under the FOIA or any notice, recommendation or complaint made to the Council in relation to the FOIA, the Supplier will provide to the Council in relation to an access request, any details in respect of the information as the Council may request and a copy of the relevant information where the Council requests such copy; and in relation to any notice, recommendation or complaint, any background details, supporting documentation and copy information which the Council may request in order to deal with such notice, recommendation or complaint within five (5) Working Days of the date of the request from the Council.

14.3. The Supplier acknowledges that the Council is obliged under the FOIA to disclose information, including information relating to its appointment under this agreement and the Agreement, to third parties, subject to certain exemptions. The Supplier further accepts and acknowledges that the decision to disclose information and the application of any such exemptions under the FOIA will be at the Council's sole discretion PROVIDED THAT the Council shall act reasonably and proportionately in exercising its obligations under the FOIA as to whether any exemptions under section 43 of the FOIA may apply to protect the Supplier's legitimate commercial and trade secrets.

15. CONFIDENTIALITY

15.1. Subject to clause 13 (Data Protection) and clause 14 (Freedom of Information) the Supplier shall not, without the prior written consent of the Council, during or after the

termination or expiry of this Agreement disclose, directly or indirectly, to any person any information relating to the Agreement or the Council any information of whatever nature which is not in the public domain. The Supplier's obligations under this condition shall survive the expiry or termination of the Agreement for whatever reason.

16. INTELLECTUAL PROPERTY RIGHTS

- 16.1. Unless otherwise agreed in writing between the parties, all copyright, design rights and other intellectual property rights in any work which is developed in the course of supplying Goods shall be vested in the Council and the Supplier shall do all things and render all such assistance as may be reasonably required by the Council in order to vest such rights in the Council.
- 16.2. Any database, program, plans, drawings, documents, handbooks, codes of practice or other information in whatever form (the "IPR Documents") provided by the Council pursuant to the Agreement shall at all times remain its property and the Supplier shall not use, reproduce, disseminate, adapt, transmit in any form or by any means the IPR Documents or any part thereof or permit the same to be so used, reproduced, disseminated, adapted or transmitted as aforesaid or published other than for the purposes of carrying out its obligations under the Agreement.
- 16.3. The Supplier hereby grants to the Council an irrevocable, non-exclusive, royalty-free licence to use for any purpose in connection with the supply of Goods all the Supplier's intellectual property which the Supplier has used or supplied in connection with the supply of Goods, provided that the Supplier shall have no liability for any use of such intellectual property other than for the purposes for which it is intended. The Council may grant sub-licences out of the said licence.
- 16.4. The Supplier shall indemnify the Council against all loss, damage, costs and expenses for which the Council is or becomes liable as a result of any infringement or alleged infringement by the Supplier of any third party's intellectual property rights.

17. INDEMNITY

- 17.1. The Supplier will indemnify the Council in full in respect of all 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 Council, whether criminal or civil, (including the costs of transport, labour, administration and legal costs on an indemnity basis to the Council) arising from:

17.1.1. any act, neglect or default on the part of the Supplier, its employees or agents;

17.1.2. breaches in respect of any matter arising from the provision of the supply of Goods

resulting in any successful claim by any third party.

17.2. Without prejudice to any other provision of this Agreement, the Supplier will fully indemnify the Council against any claims made against it as a result of any failure by the Supplier to comply with any statutory provision to be observed or performed in connection with the provision of the supply of Goods.

17.3. The Supplier's liability to indemnify the Council arising under this clause 17 will be without prejudice to any other right or remedy of the Council arising under this Agreement.

18. INSURANCE

18.1. The Supplier will throughout the Term maintain with a reputable insurance company within the UK such policies of insurance (provided that such insurance is available in the market at commercially reasonable rates) as are necessary to cover any liability of the Supplier 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 Supplier's carrying out or failing to carry out its obligations under the Agreement or for which it may become liable to the Council under clause 16, all statutory required insurance(s) including:

18.1.1. employers liability insurance shall be in the minimum sum of £10,000,000.00 in respect of one incident and the number of incidents covered shall be unlimited;

18.1.2. public liability insurance cover shall be in the minimum sum of £5,000,000.00 in respect of any one incident and the number of incidents covered shall be unlimited and should be adequate to cover all risks in the supply of Goods;

18.1.3. directors and officers liability, trustee's liability, professional indemnity or similar as appropriate to the Suppliers circumstances shall be in the minimum sum of £2,000,000.00 in respect of any one incident and the number of incidents covered shall be unlimited which should also be in place for a 6 year period following the termination of the Agreement;

18.2. Upon request, the Supplier will provide the Council with details of the policies of insurance (by way of insurer's certificate) effected in accordance with clause 18.1, so as to demonstrate that clause 18.1 is being complied with.

18.3. The Supplier will immediately inform the Council of any failure or inability to maintain insurance in accordance with clause 18.1 and of any circumstances likely to render such insurance void or voidable in order that the Supplier and the Council can discuss the means of best protecting their respective positions in the absence of such insurance.

18.4. Any increased or additional premiums required by insurers by reason of the Supplier's own

claims records or other acts or omissions particular to the Supplier will be deemed to be within commercially reasonable rates.

19. TERMINATION OF AGREEMENT

19.1. The Agreement shall terminate automatically on the expiry of the Term.

19.2. In the event:

- 19.2.1. the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;
- 19.2.2. the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;
- 19.2.3. a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;
- 19.2.4. the Supplier (being an individual) is the subject of a bankruptcy petition order;
- 19.2.5. a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days;
- 19.2.6. an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- 19.2.7. a floating charge holder over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 19.2.8. a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;

- 19.2.9. any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 18.2.1 to clause 18.2.8 (inclusive);
- 19.2.10. the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- 19.2.11. the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.

the Council may, without prejudice to any other power of termination or to any rights or remedies it may have, terminate the Agreement forthwith by notice and the Supplier shall indemnify the Council against all costs, expenses and damages for which the Council becomes liable arising from such termination.

19.3. Without prejudice to the Council's other rights and remedies, the Council may forthwith terminate the Agreement by notice if the Supplier and / or its Staff:

- 19.3.1. commits or attempts a Prohibited Act;
- 19.3.2. commits or attempts a Proscribed Act;
- 19.3.3. fails to adhere to the Local Safeguarding Policy and Procedures;
- 19.3.4. fails to comply with Good Industry Practice and or the Laws;
- 19.3.5. commits any breach of the Agreement and fails to remedy such breach within seven (7) days of being given written notice to do so by the Council; or
- 19.3.6. fails to perform its obligation under the Agreement with due diligence.

19.4. In addition to clauses 19.1 to 19.3 the Council shall have the right to terminate the Agreement, or to terminate the provision of any part of the Agreement with immediate effect by giving written notice to the Supplier, in which case the Council shall pay the Supplier fair and reasonable compensation for any work in progress on any other Goods at the date of termination but such compensation shall not include loss of anticipated profits or any consequential loss.

19.5. Clauses that expressly or by implication survive termination of the Agreement shall continue in full force and effect.

20. TRANSPARENCY

- 20.1. In order to comply with the Government's policy on transparency in the areas of procurement and contracts the Supplier agrees that the Agreement and the tender documents and any information including but not limited to requests for quotes, advertisement issued by the Council seeking expressions of interest, the pre-qualification questionnaire and the invitation to tender (the "Procurement Documents") issued by the Council which led to its creation will be published by the Council on a designated web site.
- 20.2. The entire Agreement and all the Procurement Documents issued by the Council will be published on the designated web site save where to do so would disclose information the disclosure of which would:
- 20.2.1. contravene a binding confidentiality undertaking;
 - 20.2.2. be contrary to the Public Contracts Regulations 2015; or
 - 20.2.3. in the reasonable opinion of the Council be prevented by virtue of one or more of the exemptions in the FOIA or one or more of the exceptions in the Environmental Information Regulations 2004.
- 20.3. If any of the situations in clauses 20.2.1 to 20.2.3 apply the Supplier consents to the Agreement or Procurement Documents being redacted by the Council to the extent necessary to remove or obscure the relevant material and being published on the designated website subject to those redactions.

21. DISPUTES

- 21.1. If the Council believes that the supply of Goods are deficient, the Supplier shall be formally notified in writing by the Council, inviting the Supplier at the earliest possible opportunity to discuss the matter and giving clear indications as to how the supply of Goods have not been satisfactory.
- 21.2. After such discussions, the Supplier shall remedy any agreed faults within an agreed, reasonable timescale. Once the Council has formally notified the Supplier of any such deficiencies, it shall be entitled to withhold payment of any invoices which the Supplier has submitted (or may submit) for the supply of Goods, or part-pay any such invoices as it sees fit.
- 21.3. If the Supplier is unable or unwilling to remedy the above faults, the Council may terminate this Agreement forthwith; if the Supplier feels that the supply of Goods are not at fault or that the Council is unfair in its judgment of the quality of the supply of Goods, and the parties are unable to agree the matter amicably between them, the matter may be resolved by reference

to an independent mediator who is acceptable to both parties, and whose decision both parties agree shall be final. Both parties shall share the cost of mediation.

22. (COMPLIANCE WITH ANTI-SLAVERY AND HUMAN TRAFFICKING LAWS)

22.1. In performing its obligations under this Agreement, the Supplier shall:

- 22.1.1. comply with all applicable anti-slavery and human trafficking laws, statutes, regulations [and codes] from time to time in force [including [but not limited to] the Modern Slavery Act 2015]; [and]
- 22.1.2. have and maintain throughout the Term of this Agreement its own policies and procedures to ensure its compliance;
- 22.1.3. [not engage in any activity, practice or conduct that would constitute an offence under sections 1,2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK;]
- 22.1.4. include in contracts with its direct Sub-Contractors and suppliers provisions which are at least as onerous as those set out in this clause 22;
- 22.1.5. [notify the Authority as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Agreement;] and
- 22.1.6. maintain a complete set of records to trace the supply chain of all [Goods] [and] [Services] provided to the Authority in connection with this Agreement; and permit the Authority and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's Personnel to audit the Supplier's compliance with its obligations under this clause 22.

22.2. The Supplier represents and warrants that [at the date of this Agreement]:

- 22.2.1. neither the Supplier nor any of its officers, employees [or other persons associated with it]:
 - (i) has been convicted of any offence involving slavery or human trafficking; and
 - (ii) [having made reasonable enquiries, so far as it is aware **OR** to the best of its knowledge,] has been or is the subject of any investigation, inquiry or enforcement proceedings by any governmental, administrative or regulatory body regarding any offence or alleged offence of or in connection with slavery and human trafficking.

- 22.3. The Supplier shall implement due diligence procedures for its [direct] Sub-Contractors[, and][suppliers][and other participants in its supply chains], to ensure that there is no slavery or human trafficking in its supply chains.
- 22.4. The Supplier shall prepare and deliver to the Council, an annual slavery and human trafficking report setting out the steps it has taken to ensure that slavery and human trafficking is not taking place in any of its supply chains or in any part of its business with its annual certification of compliance with clause 22.
- 22.5. The Supplier shall indemnify the Authority against any losses, liabilities, damages, costs (including but not limited to legal fees) and expenses incurred by[, or awarded against,] the Authority as a result of any breach of the Anti-slavery Policy.
- 22.6. The Supplier represents, warrants and undertakes that it conducts its business in a manner that is consistent with the Anti-slavery Policy.
- 22.7. The Supplier shall report the discovery or suspicion of any slavery or trafficking by it or its sub-contractor to the Council and the Modern Slavery Helpline.
- 22.8. The Supplier shall have its own whistleblowing policy which encourages its Staff to report any incidents, or suspicions, of slavery or human trafficking. In the event that the Supplier does not have a whistleblowing policy in place, the Supplier shall comply with the Council's Whistleblowing Policy. The Supplier shall support and protect Staff who whistleblow in accordance with this Agreement.
- 22.9. The Authority may terminate the Agreement with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of this clause 22.

23. NO WAIVER

- 23.1. No delay, neglect or forbearance on the part of either party in enforcing against the other party any term or condition of the Agreement shall either be or be deemed to be a waiver or in any way prejudice any right of that party under this Agreement.

24. FORCE MAJEURE

- 24.1. Neither party shall be liable for delay in performing or failing to perform its obligations under this Agreement if the delay or failure results from events or circumstances beyond its reasonable control. Such delay or failure shall not constitute a breach of this Agreement and the time for performance shall be extended by a period equivalent to that during which performance is prevented provided that if such delay or failure persists for more than one month nothing in this clause shall be taken to limit or prevent the exercise of the right to terminate under clause 19.

25. ASSIGNMENT

25.1. Subject to clause 25.2, neither party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior consent of the other party (such consent not to be unreasonably withheld).

25.2. The Council shall be entitled to novate the Agreement to any other body which substantially performs any of the functions that previously had been performed by the Council or to any other body which the Council nominates.

26. ACCRUED RIGHTS AND REMEDIES

26.1. The termination of the Agreement will not prejudice or affect any claim, right, action or remedy that will have accrued or will thereafter accrue to either party.

27. RIGHTS AND DUTIES RESERVED

27.1. All rights, duties and powers which the Council has as a local authority or which the Council's officers have as local authority officers are expressly reserved.

28. SURVIVAL OF TERMS

28.1. The terms of the Agreement will (except in respect of any obligations fully performed prior to or at the completion of the supply of Goods) continue in force and effect after the completion of the supply of Goods by the Supplier.

29. AUTHORITY TO ENTER INTO THE AGREEMENT

29.1. Each of the parties warrants its power to enter into this Agreement and that it has obtained the necessary approvals to do so.

30. ENTIRE AGREEMENT

30.1. This Agreement contains the whole agreement between the parties and neither party has relied upon any oral or written representations made to it by the other or the others employees, representatives or agents and this Agreement supersedes any prior agreement between the parties.

31. GOVERNING LAW

31.1. This Agreement shall be governed by and construed in accordance with English law and the parties submit to the exclusive jurisdiction of the courts of England and Wales.

ANNEX 2
CHARGES

ANNEX 3

GOODS AND DETAILS OF ANY PERSONAL DATA PROCESSING