



**Date**            **06 October 2021**

**(1) Raven Housing Trust Limited**

**-AND-**

**(2) Toshiba TEC UK Imaging Systems Ltd**

**CALL-OFF CONTRACT RELATING TO THE SUPPLY OF**

**The Supply of Print & Multifunction Device  
Solutions**

**UNDER THE Pfh THE SUPPLY OF PRINT MANAGEMENT & MULTIFUNCTION DEVICE  
SOLUTIONS FRAMEWORK 139608-2016 (2016/S 079-139608)**

**THIS CALL-OFF CONTRACT is dated 06 October 2021**

**BETWEEN**

- (1) **Raven Housing Trust Limited** (registered number 30070R) Registered Office, Raven House, 29 Linkfield Lane, Redhill, Surrey, RH1 1SS (the "**Client**")
- (2) **Toshiba TEC UK Imaging Systems Ltd** (company number 04124726) of 160 Queen Victoria Street, London, EC4V 4BF (the "**Contractor**").

**INTRODUCTION**

- (A) PfH is a Contracting Authority (as defined in clause 3(1)(w) of the Public Contract Regulations 2006) and the members of PfH are entitled to call-off Goods and Services in accordance with the provisions of this Framework Agreement.
- (B) Pursuant to a services concession contract PfH has granted HouseMark Ltd, a company registered in England and Wales with company number 03822761, ("**HouseMark**") the exclusive right as concessionaire to operate and manage a purchasing consortium on behalf of PfH for the benefit of its members.
- (C) The Procurement Agent has been appointed by HouseMark as its sub-contractor to provide procurement services on behalf of PfH for the benefit of the members of PfH.
- (D) The Contractor submitted a tender on 4<sup>th</sup> July 2016 to provide Goods and Services to members of PfH under a framework agreement.
- (E) Following the Contractor's successful tender, the Contractor entered into the Framework Agreement under which the Client is entitled to call-off Goods and Services from the Contractor in accordance with the terms of the Framework Agreement.
- (F) The Client is a member of PfH (and therefore a Client as defined in the Framework Agreement), as such this Agreement is intended to establish a direct contractual relationship between (1) the Client and (2) the Contractor, under which the Contractor will supply Goods and Services to the Client in accordance with the Framework Agreement.

## AGREEMENT

### 1 Definitions and Interpretation

1.1 In this Agreement unless the context otherwise requires the following provisions shall have the meanings given to them below:

**“Commencement Date”** means the date of this Agreement.

**“Condition”** means a condition within the Agreement.

**“Confidential Information”** means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of a party, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as “confidential”) or which ought reasonably to be considered to be confidential;

**“Contract Price”** means the price (inclusive of any applicable VAT), payable to the Contractor by the Client under this Agreement, as set out in the Pricing Schedule, for the full and proper performance by the Contractor of its obligations under this Agreement.

**“Framework Agreement”** means the PfH Framework Agreement for the provision of The Supply of Print & Multifunctional Device Solutions entered into on 4th July 2016 between (1) PfH, (2) the Contractor and (3) the Procurement Agent, as attached at Schedule 2.

**“Fraud”** means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to this Agreement or defrauding or attempting to defraud or conspiring to defraud the Client.

**“Goods”** means any such goods as are to be supplied by the Contractor (or by the Contractor’s sub-contractor) under this Agreement.

**“Intellectual Property Rights”** means patents, trademarks, service marks, design rights (whether registrable or otherwise), applicable for any of the foregoing, copyright, database rights, trade or business names and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom).

**“Law”** means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, enforceable community right within the meaning of Section 2 of the European Communities Act 1972, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or

requirements or any Regulatory Body of which this Agreement is bound to comply.

**“Party”** means a party to this Agreement.

**“PfH”** means Procurement for Housing Limited, a company limited by guarantee in England and Wales (company number 07662661).

**“Pricing Schedule”** means Schedule 3 which contains details of the Contract Price.

**“Procurement Agent”** mean CEL Procurement Limited, a company registered in England and Wales under company number 07371389.

**“Schedule”** means a schedule attached to, and forming part of, this Agreement.

**“Services”** means any services to be supplied by the Contractor (or by the Contractor's sub-contractor) under this Agreement, the Framework Agreement or the Terms and Conditions.

**“Staff”** means all persons employed by the Contractor to perform its obligations under this Agreement together with the Contractor's servants, agents, suppliers and sub-contractors used in the performance of its obligations under this Agreement.

**“Term”** shall have the meaning given to it in clause 2 of this Agreement.

**“Terms and Conditions”** means the call-off terms and conditions of contract, as attached at Schedule 1, as may be amended between parties in writing, any such amendments being as set out in Schedule 4.

**“VAT”** means value added tax in accordance with the provisions of the Value Added Tax Act 1994.

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

(a) Words importing the singular meaning include where the context so admits the plural meaning and vice versa;

(b) Words importing the masculine include the feminine and the neuter;

(c) Reference to a clause is a reference to the whole of that clause unless stated otherwise;

(d) Reference 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;

(e) Reference to any person 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;

(f) The words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";

(g) Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.

## **2 Term**

This Agreement shall take effect on the Commencement Date 29 April 2021 and shall expire automatically on 28 April 2024, unless it is otherwise terminated in accordance with the provisions of this Agreement, or otherwise lawfully terminated or unless extended in writing by the Client (the "**Term**").

The approximate annual value of the call-off contract is: £22,000.00 Excl. Vat

## **3 Contractor's Status**

At all times throughout the Term the Contractor shall be an independent Contractor and nothing in this Agreement shall create a contract of employment, a relationship of agency or partnership or a joint venture between the Parties and accordingly neither Party shall be authorised to act in the name of, or on behalf of, or otherwise bind the other Party save as expressly permitted by the terms of this Agreement.

## **4 Client's Obligations**

4.1 Throughout the term:

4.1.1 the Client may at its absolute discretion and from time to time throughout the term order Goods or Services from the Contractor in accordance with clauses 4, 5 and 6 of the Framework Agreement and in accordance with the Terms and Conditions.

4.1.2 the Client shall pay any sums due to the Contractor in accordance with clause 7 of the Framework Agreement, in accordance with the Terms and Conditions, and by reference to the Contract Price.

4.1.3 the Client shall perform its obligations to the Contractor in accordance with the Terms and Conditions.

## 5 Contractor's Obligations

5.1 Throughout the term:

5.1.1 the Contractor acknowledges that the Client may at its absolute discretion and from time to time order Goods or Services from the Contractor in accordance with clauses 4, 5 and 6 of the Framework Agreement, and in accordance with the Terms and Conditions.

5.1.2 the Contractor shall perform its obligations to the Client in accordance with the Terms and Conditions.

## 6 Entire Agreement

This Agreement constitutes the entire agreement between the Parties in respect of the matters dealt with therein. This Agreement supersedes all prior negotiations between the Parties and all representations and undertakings made by one Party to the other, whether written or oral, except that this clause shall not exclude liability in respect of any Fraud or fraudulent misrepresentation.

## 7 Notices

7.1 Any notice or other communication which is to be given by either Party to the other shall be sent to the details outlined in clause 7.2 below.

7.2 For the purposes of clause 7.1 above, the address of each Party shall be:

(a) For the Client:

**Raven Housing Trust Limited**

Raven House,  
29 Linkfield Lane,  
Redhill,  
Surrey,  
RH1 1SS

(b) For the Contractor:

**Toshiba TEC UK Imaging Systems Ltd**

160 Queen Victoria Street  
London  
EC4V 4BF

7.3 Either Party may change its address for service by serving a notice in accordance with this clause.

## **8 Mistakes in Information**

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

## **9 Conflicts of Interest**

The Contractor shall take appropriate steps to ensure that neither the Contractor nor any Staff is placed in a position where, in the reasonable opinion of the Client, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Contractor and the duties owed to the Client under the provisions of this Agreement. The Contractor will disclose to the Client full particulars of any such conflict of interest which may arise.

## **10 Confidentiality**

10.1 Each Party shall treat any Confidential Information belonging to the other Party as confidential and safeguard it accordingly and shall not disclose any Confidential Information belonging to another Party to any other person without the prior written consent of that Party, except to such persons and to such an extent as may be necessary for the performance of this Agreement or except where disclosure is otherwise permitted by the provisions of this Agreement.

10.2 The provisions of clause 10.1 above shall not apply to any information which:

10.2.1 is or becomes public knowledge other than by a breach of this clause 10;

10.2.2 is in the possession of the recipient without restriction before the date of receipt from the disclosing party;

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

10.2.4 is independently developed without access to the confidential information;  
or

10.2.5 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 freedom of information act 2000 or the environmental information regulations 2004.

## **11 Severability**

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this Agreement

had been executed with the invalid provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this Agreement, the Client and the Contractor shall immediately commence good faith negotiations to remedy such invalidity.

## 12 Non-exclusivity

For the avoidance of doubt, nothing in this Agreement shall create an exclusive relationship between the Client and the Contractor.

## 13 Force Majeure

Neither party shall be in breach of this agreement nor liable for delay in performing, or failure to perform, any of its obligations under this agreement if such delay or failure results from events, circumstances or causes beyond its reasonable control. In such circumstances the affected party shall be entitled to a reasonable extension of the time for performing such obligations. If the period of delay or non-performance continues for four (4) weeks the party not affected may terminate this agreement by giving seven (7) days' written notice to the affected party.

## 14 Governing Law

Each Party accepts the exclusive jurisdiction of the English courts and agrees that this Agreement is to be governed by and construed according to English law.

## 15 Data Protection

The subject-matter, nature and purpose and the duration of Processing and the types of Personal Data and categories of Data Subject in relation to which Personal Data may be processed under this Agreement are set out in the table below:

	<b>Personal Data of which the Client is Data Controller</b>	<b>Personal Data of which the Contractor is Data Controller</b>
<b>Data Processor:</b>	Contractor	Client
<b>Categories of Data Subject:</b>	Residents and the Client's Staff	The Contractor's Staff.
<b>Subject matter of Processing (including types of Personal Data that may be Processed):</b>	Personal Data concerning: <ul style="list-style-type: none"> <li>Residents including names, addresses and contact details, Property access requirements or special</li> </ul>	Personal Data concerning contact details of Contractor's Staff.

		<p>requirements due to vulnerabilities; and</p> <ul style="list-style-type: none"> <li>• contact details of Client's Staff.</li> </ul>	
<b>Nature and purpose of Processing:</b>		<p>Processing:</p> <ul style="list-style-type: none"> <li>• Residents' Personal Data for the purposes of carrying out the supply of Goods and Services, including arranging appointments and access, ensuring the safety of both Residents and the Contractor's Staff carrying out the supply of Goods and Services, monitoring Resident satisfaction and correcting any Personal Data found to be incorrect whilst carrying out the supply of Goods and Services; and</li> <li>• Client's Staffs' contact details to enable the Parties to carry out their obligations under this Agreement.</li> </ul>	<p>Disclosure of Personal Data concerning Contractor's Staff:</p> <ul style="list-style-type: none"> <li>• to identify which Staff are undertaking the supply of Goods and Services and monitor and manage their performance of this Agreement; and</li> <li>• to enable the Parties to carry out their obligations under this Agreement.</li> </ul>
<b>Duration of Processing:</b>		During the Contract Period and for 20 (twenty) Working Days from its end (within which it is to be returned or destroyed).	During the Contract Period.

**IN WITNESS** of which this Agreement has been duly executed by the parties.

**Signed** for and on behalf of **Raven Housing Trust Limited:**

Signature:

*Julia Mixer*

Name: Julia Mixer

Position: Director of Transformation

Date: 06 October 2021

**Signed** for and on behalf of **Toshiba TEC UK Imaging Systems:**

*P. J. Dowling*

Signature:

Name: Peter Dowling

Position: Finance Director

Date: 21/09/21

## SCHEDULE 1

### TERMS AND CONDITIONS OF CONTRACT

**As per Call off Conditions of Contract:**



Document 7 -  
Appendix N - Call Off

**SCHEDULE 2**  
**FRAMEWORK AGREEMENT**



Toshiba Framework  
agreement - signed.

### SCHEDULE 3

#### PRICING SCHEDULE – LEASE AGREEMENT(S)

As per supplier proposal:



Toshiba\_Technology\_  
Universal\_Lease\_Agre

and corresponding location schedule:



Raven Housing Trust  
Deployment Location:

**Note: The above are not conclusive, the client may add additional equipment at agreed contract rates for the duration of the contract under the proviso of a mutually agreed variation**

## SCHEDULE 4

### AMENDMENTS TO TERMS AND CONDITIONS

#### Yes – Additional Clause:

#### **36. Precedence**

36.1 To the extent of any inconsistency between the provisions of the body of this Contract and any other terms and conditions that have been submitted to the Customer by the Supplier before, during or after the commencement date of this Contract, the provisions of this Contract shall take precedent

## TERMS & CONDITIONS OF CONTRACT

### (GOODS AND SERVICES)

#### 1 DEFINITIONS

**'Acceptance Certificate'** the certification required as set out in clause 14 of the Conditions.

**'Acceptance Date'** the date the Acceptance Certificate is signed by the Client, subject to the agreed completion of the programme of delivery.

**'Agreed Variations'** the variations attached to these Conditions agreed between Inprova and the Contractor.

**'Amendment'** any variation to the Contract confirmed by an Authorised Purchase Order carrying the words 'Purchase Order Amendment Number...' and/or by the issue of an instruction to vary the Contract in accordance with Clause 11.

**'Authorised'** the signature of the person that is either named or whose status is shown on the face of the Purchase Order.

**'Client'** a member of Procurement for Housing.

**'Client Staff'** means all persons employed or used by the Client under this contract.

**'Client Variations'** variations to the Conditions agreed between the Client and Contractor in accordance with the Regulations.

**'Conditions'** these terms and conditions together with any Variations.

**'Confidential Information'** means any information communicated by either Party to the other on the basis that it is confidential.

**'Completion Date'** the date specified on the Purchase Order, or within the programme of delivery for the completion of the Delivery, and/or where applicable, the date by which it is intended that the Acceptance Certificate will be signed by the Client.

**'Contract'** the contract between the Client and Contractor for the sale and purchase of the Goods and Services in accordance with these Conditions and any Variations subject to the provision of a Purchase Order.

**'Contractor'** and/or **"The Contractor"** the person, firm, or company to whom the Purchase Order is issued.

**'Data Controller'** has the meaning given under Data Protection Law.

**'Data Processor'** has the meaning given under Data Protection Law.

**'Data Protection Law'** all Law relating to privacy and the processing of personal data, including all applicable guidance and codes of practice issued by the

Information Commissioner's Office or any replacement EU or UK data protection or related privacy Law in force in England and Wales.

**'Data Subject'** has the meaning given under Data Protection Law.

**'Data Subject Access Request'** a request by a Data Subject under Data Protection Law to access their Personal Data.

**'Delivery'** the delivery including off loading and setting in the designated place of the Goods supplied in accordance with the Contract and/or the provision of the Services supplied in accordance with the Contract. For the avoidance of doubt "delivery" shall not under any circumstances imply acceptance of the Goods and/or Services.

**'DPA'** the Data Protection Act 1998.

**'Framework Agreement'** the framework agreement between the Contractor and Procurement for Housing Ltd awarded to the Contractor in accordance with the Regulations.

**'Goods and Services'** matter, articles, things, or provision of labour to carry out tasks, which are the subject of a Purchase Order, including, but not limited to, the equipment, computer hardware and computer software specified on the face of the Purchase Order; in the schedule to the Contract and/or any Appendices and/or schedules to the Contract.

**'Inprova'** Inprova Group Limited

**'Installation'** the Installation of Goods with goods supplied by the Contractor and/or goods supplied by sources other than the Contractor as set out in clause 13.3 of the Conditions.

**'Packaging'** includes bags, cases, carboys, cylinders, drums, pallets, tank wagons and other containers.

**'Personal Data'** personal data, within the meaning given by Data Protection Law, concerning Residents and employees or workers of the Client, Contractor and Subcontractor which is obtained or Processed in connection with the supply of Goods or Services or this Contract.

**'Personal Data Breach'** any event that results or may result in any unauthorised or unlawful access to, Processing, loss and/or destruction of Personal Data in breach of this Contract including any personal data breach (as defined under Data Protection Law).

**'Premises'** the location where the Goods are to be delivered and/or the Services are to be performed, as specified in the Specification.

**'Price'** the price payable by the Client for the purchase of Goods and/or Services based upon the Charging Structure as defined in the Framework Agreement.

**'Processing'** has the meaning given under Data Protection Law and "Process" and "Processed" shall be construed accordingly.

**'Procurement Agent'** means the person named as the procurement agent under the Framework Agreement and their successors and assignees.

**'Procurement for Housing Limited'** a Contracting Authority (as defined in clause 3 (w) of the Regulations) consisting of an association of Housing Associations, ALMOs and local authorities of which the Client is a member.

**'Property'** means a property owned or managed by the Client at which any Goods and Services are to be supplied.

**'Purchase Order'** the Client's order for the supply of Goods and/or Services pursuant to a quotation or tender from the Contractor subject to these Conditions.

**'Regulations'** the Public Contract Regulations 2015 and any regulations or statutes appertaining generally to procurement in the public sector.

**'Resident'** means a tenant or occupier of a Property.

**'Sensitive Personal Data'** is "sensitive personal data" within the meaning given under Data Protection Law or Personal Data within one of the special categories of data as defined under Data Protection Law.

**'Service Level Agreement'** the service levels the Contractor has agreed to adhere to when entering into a Contract with the Client defined in the Framework Agreement.

**'Specification'** any specification for the Goods or Services, including any related plans and drawings, that is supplied to the Contractor by the Client, or produced by the Contractor and agreed in writing by the Client and the description of specification for any Services to be supplied by the Contractor.

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

**'Subcontract'** means a contract between the Contractor and a Subcontractor or between a Subcontractor and another Subcontractor at the next tier below in the supply chain (at any stage of remoteness from the Client in the supply chain) made in connection with the supply of Goods and Services.

**'Subcontractor'** means a subcontractor or supplier to the Contractor or subcontractor or supplier to such subcontractor or supplier (at any stage of remoteness from the Client in the supply chain).

**'Tender'** shall mean the standard tendering process as defined by the European Union Directives for Public Procurement.

**'Variation'** the Agreed Variations and/or Client Variations.

1.1 The headings to these Conditions shall not affect the interpretation thereof.

1.2 Words importing the singular number shall include the plural and vice versa.

- 1.3 Words importing any particular gender shall include all other genders.
- 1.4 References to persons shall include bodies of persons whether corporate or incorporate.

## 2 **BASIS OF CONTRACT**

- 2.1 The Purchase Order constitutes an offer by the Client to purchase Goods and Services from the Contractor in accordance with these Conditions.
- 2.2 The Purchase Order shall be deemed to be accepted on the earlier of:
- 2.2.1 the Contractor issuing written acceptance of the Purchase Order; or
- 2.2.2 any act by the Contractor consistent with fulfilling the Purchase Order at which point and on which date the Contract shall come into existence.
- 2.3 These Conditions apply to the Contract to the exclusion of any other terms that the Contractor seeks to impose or incorporate, or which are implied by trade, custom, practice or course of dealing. In the event and to the extent of any conflict or inconsistencies between this Contract and the Contractor's standard agreements (including Master Hire Agreement and Master Purchase and Services Agreement) set out in Schedule 4 ("the Contractor's Agreements"), the terms and conditions of the Contractor's Agreements shall prevail over the Contract but only specifically in regards to the governing of leasing equipment terms and so far as any conflict or inconsistencies are concerned. For all other (non-related equipment lease terms), the Procurement Agent's terms will prevail.
- 2.4 The Contractor acknowledges that the Contract is subject to the provisions of the Service Level Agreement.

## 3 **DURATION**

- 3.1 Any Purchase Orders issued by the Client to the Contractor shall be subject to these Conditions for as long as the Framework Agreement remains in existence.
- 3.2 The Contractor and Client acknowledge that the Contractor will continue to pay the Management Charge (as defined in the Framework Agreement) to the Procurement Agent until the natural expiry of the Contract, should the date of the expiry of the Contract exceed the expiry date of this Framework Agreement, or any subsequent extensions.

#### 4 **PRICES**

No other costs or charges will be payable to the Contractor unless specifically agreed in the Contract. The Contractor will not be entitled to materially alter the Price for the Goods and Services.

#### 5 **CONTRACTORS TO INFORM THEMSELVES FULLY**

The Contractor shall be deemed to have examined the requirements specified in the Purchase Order and these Conditions.

#### 6 **ACCESS**

6.1 The Client shall afford to the authorised personnel of the Contractor at all reasonable times and with prior agreement, such access to the nominated Client site (but not necessarily sole access), as may be necessary for the inspection of the site and for the execution of Delivery, providing always that the Client shall have the right to refuse to admit to, or order the removal from, the site of any person employed by, or acting on behalf of, the Contractor, or any authorised sub-Contractor who, in the opinion of the Client (which shall be final), is not a fit and proper person to be on the site. Action under this clause shall forthwith be confirmed in writing to the Contractor by the Client and shall not relieve the Contractor of any of its obligations under the Contract.

6.2 The Contractor must take reasonable care to ensure that, in the execution of the Delivery, they do not interfere with the operations of the Client, its employees or any other Contractor employed on the site.

6.3 The Contractor may work on the site only with the permission of the Client.

#### 7 **SUPPLY OF GOODS AND SERVICES**

7.1 In providing the Services, the Contractor shall:

7.1.1 co-operate with the Client in all matters relating to the Services, and comply with all instructions of the Client;

7.1.2 perform the Services with the best care, skill and diligence in accordance with best practice in the Contractor's industry, profession or trade;

7.1.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Contractor's obligations are fulfilled in accordance with the Contract;

7.1.4 ensure that Services will conform with all descriptions and specifications set out in the Specification, and that the deliverables shall be fit for any purpose expressly or impliedly made known to the Contractor by the Client;

7.1.5 provide all equipment, tools and print items and such other items as are required to provide the Services;

- 7.1.6 use the best quality goods, materials, standards and techniques, and ensure that the deliverables, and all Goods and materials supplied and used in the Services or transferred to the Client, will be free from defects in workmanship, installation and design;
  - 7.1.7 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;
  - 7.1.8 observe all health and safety rules and regulations and any other security requirements that apply at any of the Client's premises; and
  - 7.1.9 hold all materials, equipment and tools, drawings, specifications and data supplied by the Client to the Contractor and in safe custody at its own risk, maintain the Client materials in good condition until returned to the Client, and not dispose or use the Client materials other than in accordance with the Client's written instructions or authorisation.
- 7.2 The Contractor shall ensure that the Goods shall:
- 7.2.1 correspond with their description and any applicable Specification;
  - 7.2.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Contractor or made known to the Contractor by the Client expressly or by implication, and in this respect the Client relies on the Contractor's skill and judgement;
  - 7.2.3 where applicable, be free from defects in design, material and workmanship and remain so for 12 months after Delivery; and
  - 7.2.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

## 8 **MISTAKES IN INFORMATION**

- 8.1 The Contractor shall be responsible for and shall pay any extra costs occasioned by any discrepancies, errors or omissions in drawings, documentation or other information supplied in writing by the Contractor whether or not approved by the Client, provided that such discrepancies, errors or omissions are not due to inaccurate drawings or information and decisions supplied in writing to the Contractor by the Client.
- 8.2 The Client shall be responsible for, and shall pay any additional costs, which the Contractor can demonstrate as being reasonably, and necessarily incurred as a direct result of the Contractor acting upon any discrepancies, errors or omissions in any drawings, information and decisions supplied in writing to the Contractor, by the Client. Any claims submitted relative to this clause must be made in writing, and acceptance of any additional charges confirmed in writing by the Client, by means of the issue of an Amendment or variation to the Contract in accordance with Clause 11.

## 9 **PROGRAMME OF DELIVERY**

Where specified in a Purchase Order, the Delivery shall be carried out in accordance with the programme of delivery, which shall be agreed at the time of awarding the Contract. Goods and/or Services will only be delivered during the normal business working hours of the Client, unless specifically agreed in the Contract. Where a programme of delivery is not agreed, Delivery, which shall not be deemed to have taken place until the Client has accepted the Goods and/or Services in accordance with clauses 13 and 14 hereof, must be in compliance with the date specified on the Purchase Order. Any delivery of excess Goods and/or Services will be at the sole risk of the Contractor.

## 10 **PACKAGING, MARKING AND DELIVERY**

10.1 All Goods supplied against the Purchase Order must be adequately protected against damage and deterioration in transit. Any information relating to the handling and storage of Goods upon receipt must be clearly marked on the packaging and accompanying paperwork. The Goods shall be at the Contractor's risk until delivered to the Client at the point specified in the Purchase Order unless the Client otherwise agrees in writing. "Delivered" shall mean off loaded and set in the place designated by the Client, but shall not under any circumstances be deemed to be acceptance of the Goods by the Client. Unless otherwise provided for in the Purchase Order, the Contractor shall be considered responsible for the collection and disposal of all returnable packaging at no cost to the Client.

10.2 No deliveries shall be made to the Client site specified on the Purchase Order without the prior permission of the Client.

10.3 The Contractor shall be responsible for the delivery of the Goods to the Client's nominated site and shall provide, at their own cost, all necessary labour, materials and plant required for the off-loading and placing in position of any Goods and for all other purposes of the Contract.

10.4 The Goods shall be transported and off-loaded at the sole risk of the Contractor. The Contractor shall be responsible for the safe custody of any equipment, which is the property of the Contractor whilst it is held on the Client's site until the acceptance date, after which the Contractor shall remove such equipment leaving the site and premises, in a clean and tidy condition. The Client shall not be liable for any loss or damage to equipment as aforesaid howsoever caused, and shall have the right to charge for storage of the equipment in the event that the Contractor fails to remove their equipment from site within a reasonable period of time following completion of Delivery.

## 11 **VARIATIONS**

Any Variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Client and both parties agree that any such variation must be compliant with the Regulations.

## 12 **DELAYS BY THE CONTRACTOR**

12.1 If the Contractor fails to deliver the Goods, or fails to perform the Services, by the applicable dates the Client shall, without limiting its right or remedies, have one or more of the following rights:

- 12.1.1 terminate the Contract with immediate effect by giving written notice to the Contractor;
- 12.1.2 refuse to accept any subsequent performance of the Services which the Contractor attempts to make;
- 12.1.3 reject the Goods (in whole or in part) and return them to the Contractor at the Contractor's own risk and expense;
- 12.1.4 refuse to accept any subsequent delivery of the Goods which the Contractor attempts to make;
- 12.1.5 recover from the Contractor any costs incurred by the Client in obtaining substitute goods, or services, from a third party;
- 12.1.6 to claim damages for any other costs, loss of expenses incurred by the Client which are in any way attributable to the Contractor's failure to carry out its obligations under the Contract.

### 13 **ACCEPTANCE AND ACCEPTANCE TESTS**

- 13.1 All Goods and/or Services supplied in accordance with these Conditions are deemed to be subject to acceptance tests unless otherwise agreed in writing by the parties and the Client shall be required to undertake acceptance tests appropriate to the Goods and/or Services supplied within 30 elapsed days or such other period agreed in writing by the parties as in respect of a Purchase Order, following delivery of the Goods and/or Services, or specific portion thereof.
- 13.2 Where the details of the acceptance tests to be implemented in accordance with these Conditions are not specified on the Purchase Order the acceptance tests to be administered shall be defined as enabling the Client to satisfy themselves that the Goods and/or Services or specific portion thereof have been delivered such that they are in accordance with the Contract.
- 13.3 Where specified on the Purchase Order and/or where the Client has issued a specification notifying the Contractor that the Goods are to be utilised and/or installed on or with goods supplied by sources other than the Contractor, including, but not limited to, computer application software to be utilised on or with computer hardware and operating system software to be supplied by the Contractor in accordance with the Contract, (hereinafter referred to as the "Installation") the Client shall have the right to require that acceptance tests are undertaken in respect of the complete Installation. Such circumstances may, by the agreement of the parties, be reflected in the programme of delivery and/or any staged payment, which may apply to the Contract.
- 13.4 Unless otherwise specified in the Purchase Order, it shall be for the Client to provide the necessary equipment, labour and things of all kinds to carry out the acceptance tests.
- 13.5 If the Goods and/or Services or any portion thereof fail to pass the acceptance tests, a maximum of 3 (three) repeat tests shall be carried out within a reasonable time by the Client. In the event that the Goods and/or Services or any portion

thereof, are not in accordance with the Contract, then without prejudice to the Client's rights under clause 12 the Client shall have the right to: -

- 13.5.1 require the Contractor to supply, free of all charges, such additional or replacement Goods and/or Services as may be necessary to enable the Goods and/or Services to pass the acceptance tests;
  - 13.5.2 accept and retain such of the Goods and/or Services as the Client may consider expedient at such reduced price as may be agreed by the Client and the Contractor;
  - 13.5.3 employ a third party to enable the Goods and/or Services to pass the acceptance tests. In such circumstances any costs incurred shall be for the Contractor's account, and shall be deducted from any sums due under this, or any other Contract, except that the Client shall only be entitled to invoke these rights under this sub-clause should the Contractor fail to meet their obligation;
  - 13.5.4 reject the Goods and/or Services, where they are not in accordance with the Contract.
- 13.6 In the event that Goods and/or Services delivered by the Contractor fail to conform with the Contract, whether by reason of not being of quality, or fit for the purpose stipulated either in the specification issued by the Client or in accordance with the Contractor's published specifications, and whether the Goods and/or Services have been subjected to acceptance tests or otherwise, the Client shall without prejudice to their rights under Clauses 12, 15 and 22 of the Conditions have the right to reject such Goods and/or Services within 30 elapsed days from the date of Delivery.
- 13.7 The Client shall be obliged to give the Contractor 14 days to replace any rejected Goods and/or provide Services with Goods and/or Services which conform to the Contract, but shall thereafter, without prejudice to any other right which the Client may have against the Contractor, have the right to purchase such Goods and/or Services of the same or substantially equal quality and/or specification elsewhere.
- 13.8 Any additional costs, which may be incurred by the Client in purchasing such Goods and/or Services as aforesaid, shall be for the Contractor's account. When Goods are rejected they will be stored at the Client's site, and subsequently returned, at the Contractor's sole risk and expense, but the Client shall not make any charges for storage or make arrangements to return the Goods for a period of 14 elapsed days from the date of rejection. It shall be for the Contractor to make appropriate arrangements to collect the rejected Goods within the 14-day period as aforesaid.
- 13.9 The making of payment, whether of the Price or any portion thereof shall not prejudice the Client's right of rejection.

#### 14 **ACCEPTANCE CERTIFICATE**

An Acceptance Certificate will not normally be required, but where specified on a Purchase Order, and as soon as the acceptance tests appropriate to, or specified for, the Goods and/or Services have been completed and the Goods and/or

Services have passed the acceptance tests, the Client shall issue an Acceptance Certificate which will state the acceptance date and any outstanding defects in the Goods and/or Installation or relevant portion. The Contractor undertakes to rectify such defects promptly and without undue delay and, in any case, by a specific date, which shall be binding, and which both parties shall agree in writing within a seven-day period of the date of acceptance. In the event that the Contractor shall fail to remedy such defects within the period specified and agreed, the Client's rights shall be as set out in clauses 12 and 15 of these Conditions.

## 15 **TERMINATION**

15.1 Without limiting its other rights or remedies, the Client may terminate the Contract with immediate effect by giving written notice to the Contractor if:

15.1.1 the Contractor commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within 14 days of receipt of notice in writing of the breach;

15.1.2 the Contractor 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;

15.1.3 the Contractor 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;

15.1.4 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 Contractor (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Contractor with one or more other companies or the solvent reconstruction of the Contractor;

15.1.5 the Contractor (being an individual) is the subject of a bankruptcy petition order;

15.1.6 a creditor or encumbrancer of the Contractor 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 14 days;

15.1.7 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 Contractor (being a company);

- 15.1.8 a floating charge holder over the assets of the Contractor (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 15.1.9 a person becomes entitled to appoint a receiver over the assets of the Contractor or a receiver is appointed over the assets of the Contractor;
- 15.1.10 any event occurs, or proceeding is taken, with respect to the Contractor in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 15.1.1 to clause 15.1.9 (inclusive);
- 15.1.11 the Contractor suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business; or
- 15.1.12 the Contractor (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.

## 16 INTELLECTUAL PROPERTY RIGHTS

- 16.1 The Contractor shall fully indemnify the Client against all actions, claims, demands, proceedings, damages, costs, charges and expenses arising from or incurred by reason of any infringement or alleged infringement of any intellectual property, patent, design or copyright. of these Conditions by the use or possession of the Goods and/or any product which is a tangible output of the Services supplied by the Contractor under the Contract subject to the following:-
  - 16.1.1 the Client shall promptly notify the Contractor in writing of any alleged infringement of which they have notice;
  - 16.1.2 the Client must make no admissions without the Contractor's consent;
  - 16.1.3 the Client, at the Contractor's request and expense shall allow the Contractor to have conduct and/or settle all negotiations and litigation, and give the Contractor all reasonable assistance. The costs incurred or recovered in such negotiations or litigation shall be for the Contractor's account.
- 16.2 If at any time any allegation of infringement of any third party intellectual property rights is made in respect of the Goods and/or Services or in the Contractor's reasonable opinion is likely to be made, the Contractor may, at their own expense, modify or replace the Goods and/or Services or any portion(s) thereof, without detracting from the overall performance of the Goods and/or any product which is a tangible output of the Services, the Contractor making good to the Client any loss of use during modification or replacement, so as to avoid the infringement. The provisions of Clause 11 shall then take effect as if the Client had requested a variation save that the Contractor shall not be entitled to any increase to the price stated on the Purchase Order.
- 16.3 The Contractor shall treat all information provided by the Client as confidential and use such information only for purposes of meeting their obligations under the Contract. Where drawings or other data are issued the Contractor shall exercise

proper custody and control and return/dispose of such in accordance with the Client's instructions.

## 17 **STANDARD OF PERFORMANCE**

If the Client claims within the warranty period as defined in Clause 22 hereof that the Goods and/or Services or any portion thereof, are not achieving and maintaining the standard of performance specified in the Contract, then, notwithstanding prior acceptance of the Goods and/or Services in accordance with clauses 13 and 14 hereof the Contractor shall undertake necessary investigations to disprove the Client's claims, or to prove that such failure to maintain requisite standards is due to the fault of the Client, free of all charges.

## 18 **INDEMNITY**

18.1 The Contractor shall keep the Client indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Client as a result of or in connection with:

18.1.1 any claim made against the Client by a third party arising out of, or in connection with, the supply of the Goods and Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Contractor, its employees, agents or sub-contractors; and

18.1.2 any claim brought against the Client for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the receipt, use or supply of the Goods and Services.

18.2 The Contractor shall maintain in force, with a reputable insurance company, product liability insurance and public liability insurance of at least five million pounds (£5,000,000) to cover the liabilities that may arise under or in connection with the Contract and shall, on the Client's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

18.3 This clause 18 shall survive termination of the Contract.

## 19 **ASSIGNMENT AND SUB-CONTRACTING**

19.1 The Contractor shall not, without the written consent of the Client, which shall not be unreasonably withheld, sub-contract with any third parties the Contract or any part thereof, or make any sub-contract with any person or persons for the execution of any part of the Contract, but the restrictions contained in this clause shall not apply to the supply of materials or minor details, nor to any part of the Contract for which, a sub-contractor is named on the Purchase Order, and/or in regard to which the Contractor is an authorised dealer, and/or agent for the sub-Contractor, such sub-contractor being an original equipment manufacturer of Goods to be supplied in accordance with the Contract.

19.2 In circumstances where the Client gives written consent to the Contractor to assign or sub-contract specific parts of the Contract, such consent shall not relieve the

Contractor from any liability or obligations under the Contract, and the Contractor shall be responsible for the acts, defaults or neglects of their sub-contractor, their agents, servants or workmen as fully as if they were the acts, defaults or neglects of the Contractor. When requested by the Client a copy of any sub-order and/or sub-contract detail will be provided at no charge, and the provision of such documentation shall not be unreasonably withheld but shall be subject to appropriate terms related to commercial confidentiality when specified by the Contractor.

19.3 The Contractor shall not allow a Subcontractor to Process any Personal Data of which the Client is Data Controller without the prior written consent of the Client to that Subcontractor doing so. Where the Contractor wishes a Subcontractor to be able to do so the Contractor shall provide the Client with such evidence as the Client requires in order to be satisfied that the proposed Subcontractor is capable of complying with the Contractor's obligations under this Contract and under Data Protection Law in relation to that Personal Data.

19.4 Where the Client allows a Subcontractor to Process Personal Data in accordance with clause 19.3, the Contractor shall:

19.4.1 include provisions substantially the same as those in clause 19.3, this clause 19.4 and clause 28 in the subcontract with that Subcontractor; and

19.4.2 provide in the subcontract that the Client may enforce such obligations directly against the Subcontractor under the Contracts (Rights of Third Parties) Act 1999.

19.5 The appointment of a Subcontractor shall not relieve the Contractor from any of its obligations under this Contract and the Contractor shall be liable to the Client for the performance of the Subcontractor's obligations in relation to Personal Data under this Contract."

## 20 **PAYMENT**

20.1 Provided Goods and/or Services have been received and comply with the requirements of the Contract and have been accepted by the Client in accordance with the Contract, the Contractor shall be entitled to claim payment of the Price, as agreed and detailed on the Purchase Order. Payment shall be due at the end of the month following the date of invoice or the receipt of the correct invoice, whichever is the later and provided always that the Goods and/or Services have been properly delivered and/or accepted by the Client as being in accordance with the Contract.

20.2 Value Added Tax, where applicable, must be shown separately on all invoices.

20.3 Payment may be delayed, but the Client shall forfeit no prompt discount, if the Contractor fails to mark the Client's order number on the consignment, package packing notes, invoices, monthly statements and all other correspondence.

20.4 Any payment made shall be without prejudice to the Client's rights, should the Goods or Services prove unsatisfactory or not in accordance with the Contract.

20.5 If at any time at which payment would fail to be made in accordance with the provisions of this clause there shall be any defect due to the fault of the Contractor in or affecting any part or portion of the Goods and/or Services in respect of which such payment is claimed, the Client shall have the right to retain the whole of such payment, provided that in the event of such defect being of a minor character, and not such as to affect the use of the Goods and/or Services, or the said portion thereof for the purpose intended without serious risk, the Client shall not retain a greater sum than represents the cost of making good the said defect. Any sums retained by the Client under this clause shall be paid to the Contractor upon the said defect being made good, subject to the provisions of clause 20.1 above.

20.6 In circumstances where the Client invokes the provisions of clause 12 of the Conditions, and makes a claim in respect of the Delivery and/or the Installation or any part thereof being subject to a delay due to the fault of the Contractor, the Client reserves the right to deduct the appropriate percentage of the Price from the payment falling due upon the completion of the Delivery and/or Installation or specific part thereof for which payment is being claimed.

## 21 RECOVERY OF SUMS DUE

Whenever under the Contract any sum of money shall be recoverable from, or payable by, the Contractor, the same may be deducted from any sum then due or which at any time thereafter may become due to the Contractor under this or any other Contract with the Client. Exercise by the Client of their rights under this clause, shall be without prejudice to any other rights or remedies available to the Client under the Contract.

## 22 WARRANTY

22.1 In circumstances where the Contractor is required to supply Goods in order to meet their obligations in respect of the Contract and in respect of which the Contractor is a dealer, and/or re-seller and/or agent for the original equipment manufacturer and/or licensor of the Goods concerned, the Contractor shall make known, and assign to the Client all and any warranty service provisions applicable to and provided with the Goods supplied in accordance herewith by the original equipment manufacturer and/or licensor of the Goods concerned. Any warranty service options available shall be communicated to the Client on the Contractor's quotations, and the Client shall select the option required and note the service required on the Purchase Order issued as aforesaid. Notwithstanding the foregoing, unless otherwise provided for in specific quotations and/or confirmed on specific Purchase Orders so issued in accordance herewith, the warranty period provided with Goods supplied in accordance with the Contract shall be a minimum of 12 (twelve) months duration commencing from the date of delivery and/or acceptance of the Goods by the Client, whichever is the later, and warranty services shall be provided on the Client's site at the address stated on the Purchase Order or such other address as maybe notified to the Contractor in respect of specific items of Goods from time to time.

22.2 Without prejudice to Clause 22.1 above, in the event that the Contractor is the original equipment manufacturer and/or assembles the Goods to the Contractor's own specification, and/or the Contractor is otherwise assigned and authorised by the original equipment manufacturer and/or licensor of the Goods to provide

warranty services, the Contractor shall be obliged to provide a warranty service for the Goods supplied in accordance with the Contract, then the Contractor shall be responsible for making good at their own expense on the Client site(s) nominated, and within the time scales specified in this clause 22, any defect in or damage to any of the Goods and/or output of the Services provided which may develop during a period of 12 (twelve) calendar months, where the Goods are to be utilised immediately, (which, where an Acceptance Certificate is issued, shall be the date stated on the Acceptance Certificate for the Goods) or a period of 18 (eighteen) calendar months where the Goods are not to be utilised immediately, from the date of delivery, whichever is the shortest period hereinafter referred to as the "Warranty Period", for that portion which results in a failure of the Goods to fulfil the functions or meet the level of performance specified in the Contract and accepted by the Client by the issue of Acceptance Certification or otherwise, which arises from:-

22.2.1 defective materials, including software, workmanship or design (other than a design furnished or specified by the Client for which the Contractor has disclaimed responsibility in writing within a reasonable time, after the receipt of the Client 's instructions); or,

22.2.2 any act or omission of the Contractor done or omitted during the Warranty Period.

22.3 The Contractor must respond within a maximum of 8 (eight) working hours or such other period as specified on the Purchase Order and/or in the schedule to the Contract to a request for service under the provisions of the warranty, and must, wherever possible effect a repair within a maximum of a further 8 (eight) working hours

22.4 If any such damage or defect cannot be remedied within the time scale detailed in Clause 22.3, or the Contractor fails to respond and remedy the damage or defect within a reasonable time, the Client may proceed to engage the services of a third party to provide the warranty service. Any service so undertaken shall be at the Contractor's risk and expense, and any costs incurred by the Client shall be for the Contractor's account. Should the Client invoke the provisions of this clause, the utilisation of a third party services shall not affect the warranty provisions for the remainder of the Warranty Period, nor the ability of the Client to enter into a maintenance agreement with the Contractor, and the Contractor shall be responsible for meeting their obligations thereafter.

22.5 Should the Client invoke the provisions of clause 22.4 above, this shall be without prejudice to any other rights that the Client may have against the Contractor in respect of the Contractor failing to remedy such defect or damage.

22.6 Where a defect involves a fault inherent in the design of the Goods and/or specification of Services provided, or any part thereof, the Contractor shall, at its own expense, promptly carry out such re-design as may be necessary to prevent a recurrence of the defect, and upon completion shall rectify the fault in the Goods and/or standard of the Services provided. Any such re-design or re-specification shall be accomplished in such a manner as to ensure that the performance and operation of the Goods and/or Services is not down-graded by virtue of such re-

design and/or re-specification from the standard as accepted by the Client in accordance with the Contract.

- 22.7 The provisions of this Clause 22 shall not apply to any defect or damage which arises or develops as a result of any alteration, addition or attachment to the Goods where:-
- 22.7.1 the Contractor has published by means of publication in their, or the original equipment manufacturer's specifications, a notification stating that the alteration, addition or attachment will downgrade the standard of performance of the Goods and/or invalidate the warranty;
- 22.7.2 the Contractor has otherwise notified the Client in writing that a specific alteration, addition or attachment will downgrade the standards of performance of the Goods and/or invalidate the warranty;
- 22.7.3 the warranty is invalidated by a negligent act or omission of the Client.
- 22.7.4 provided always that it shall be for the Contractor to prove that any defect or damage has been caused by the alteration, addition or attachment. Save as aforesaid, the Client shall have the right to make any alteration and/or addition and/or attachment to the Goods, whether such alteration, addition and/or attachment is made by employees of the Client, by the Contractor and/or by an appropriately qualified third party source, without reference to the Contractor and the Contractor shall not be relieved of any of their obligations to provide warranty services in accordance with this Clause 22.
- 22.8 All services under the provision of this warranty shall be provided free of all charges, and shall be carried out on the Client site(s). Goods shall not be removed from the Client for the provision of warranty services without the permission of the Client.
- 22.9 In circumstances where Goods are authorised to be removed from the Client's site, the Goods shall at all times remain the property of the Client, but the risk inherent in the Goods shall pass to the Contractor from the time the Goods are removed from their normal operating environment until they are returned and, where appropriate, reinstalled into the same operating environment, or any other operating environment designated by an authorised officer of the Client, appropriate acceptance tests have been concluded where necessary, and acceptance documentation has been signed by the Client .
- 22.10 The Contractor shall be solely liable to rectify any loss or damage howsoever caused prior to such acceptance as a matter of urgency and, in any case, within a time scale to be agreed by both parties at the appropriate time.
- 22.11 Where Goods are held at the Contractor's site the Goods must be readily identifiable as the property of the Client and the Contractor must keep appropriate records.
- 22.12 Should the Contractor be affected by any incidents such as bankruptcy or liquidation the Contractor must identify such Goods to the Receiver as the property of the Client.

22.13 This clause in no way seeks to limit any statutory rights that may accrue to the Client under the Contract.

## 23 **REPLACEMENT GOODS AND/OR SERVICES**

23.1 In the event that all or any of the Goods and/or Services supplied in accordance with the Purchase Order/the Contract shall consistently fail to achieve and maintain the standards of performance either:-

23.1.1 as specified in the published specification for the Goods and/or Services as issued by the manufacturers of the Goods and/or their authorised agents, and/or the service provider and/or the Contractor;

23.1.2 as specified on the Purchase Order;

23.1.3 as demonstrated in the acceptance tests and/or accepted in writing by the Client;

23.1.4 a combination of the above,

and provided that the Goods have been installed and the Goods and/or Services are being used by the Client in accordance with the installation and/or operating instructions:-

23.1.5 issued and supplied by the Contractor in writing or any other appropriate media agreed by the Client;

23.1.6 issued and/or published by the manufacturers of the Goods and/or their authorised agents and/or the service provider;

23.1.7 where no instructions are provided, in accordance with generally accepted good practice appropriate to the Goods and/or Services;

23.1.8 a combination of the above,

the Contractor hereby warrants that the Goods and/or Services, or specific portion(s) thereof affected by such circumstances shall be replaced with Goods and/or Services of equal or nearest equivalent higher specification forthwith and free of all charges.

23.2 For the avoidance of doubt, "consistently fail" shall be defined as the Goods requiring a maximum of 3 (three) visits or returns from the Client for repair to the Contractor, to provide the Goods and/or Services to satisfactory standards, for the period under the terms and conditions of warranty provided with the Goods and/or Services in accordance with Clause 22 or these Conditions, or such other period as may be agreed by the parties in writing.

23.3 In the event that the Goods and/or Services are supplied without warranty, then the Client's rights under this clause shall remain unaffected only in circumstances where the Client enters into a separate maintenance agreement with the Contractor.

- 23.4 Service calls which the Contractor can prove as having been made necessary due to any negligent act or omission of the Client, or which are defined as return calls to replace parts shall be excluded from the total number of calls referred to in clause 23.2 hereof.
- 23.5 If the Contractor removes the Goods from site to undertake warranty repairs, and fails to return the Goods repaired and operating to the contractual standard of performance within a maximum period of 10 (ten) working days, and/or fails to provide an adequate service within the same period, from the date of receiving the initial request from the Client, the failure shall be defined as one service call added to the cumulative total for the purposes of these Conditions of Contract for each 10 (ten) working day period as aforesaid.
- 23.6 Replacement Goods and/or Services supplied by the Contractor under this Clause 23 shall be supplied in accordance with these Conditions wherever they are appropriate. The Goods and/or Services shall be supplied with a full warranty service as defined in, and for the period stated in Clause 22 of these Conditions of Contract commencing on the date that the replacement Goods and/or Services are delivered or accepted whichever date is appropriate to the Contract. The Client's rights to require the Contractor to replace Goods and/or Services in accordance with this clause shall apply to any replacement Goods and/or Services as if they were the Goods and/or Services originally supplied.
- 24 PERFORMANCE GUARANTEE**
- 24.1 Unless otherwise stated, the Contractor shall be solely and entirely responsible for the specification of the Goods required to perform the tasks specified and achieve satisfactory levels of performance of the requirements specified by in the Invitation to Tender document, and/or any documentation subsequently issued by the Client, and agreed by the parties as forming part of the Contract.
- 24.2 Any amendments made to the Contractor's original specification subsequent to discussions with the Client shall not excuse the Contractor from their obligations under this clause.
- 24.3 In circumstances where any Goods fail to carry out the functions and/or otherwise meet the specification specified by the Client, or any other systems requirement issued by the Client in connection with the Contract, and agreed by both parties, the Contractor shall be responsible for providing such additional or replacement Goods and/or Services as may be necessary to achieve the requirements in accordance with the Contract free of all charges.
- 24.4 Such provision of replacement Goods shall be in accordance with these Conditions of Contract, and shall where specified be subject to Acceptance Tests and the issue of Acceptance Certificates in accordance with these Conditions.
- 24.5 The inclusion of this clause in no way seeks to limit any statutory rights which may accrue to the Client under these Conditions, and shall not relieve either party of their obligations under these Conditions.

**25 HEALTH AND SAFETY**

- 25.1 The Contractor shall promptly notify the Client of any health and safety hazards that may arise in connection with the performance of the Contract.
- 25.2 The Client shall promptly notify the Contractor of any health and safety hazards which may exist or arise at the Client's Premises and which may affect the Contractor in the performance of the Contract.
- 25.3 While on the Client's premises, the Contractor shall comply with any health and safety measures implemented by the Client in respect of Staff and other persons working on those premises.
- 25.4 The Contractor shall notify the Client immediately in the event of any incident occurring in the performance of the Contract on the Client's premises where that incident causes any personal injury or damage to property that could give rise to personal injury.
- 25.5 The Contractor shall take all necessary measures to comply with the requirements of the Health and 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.
- 25.6 The Contractor 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 Client on request.

## 26 **DISCRIMINATION**

The Contractor and/or any sub-contracted parties shall not unlawfully discriminate within the meaning and scope of any law, enactment, order, or regulation relating to discrimination (whether in race, gender, religion, sexual orientation or otherwise) in employment.

## 27 **STATUTORY AND OTHER REGULATIONS**

- 27.1 The Contractor shall in all matters arising in the performance of the Contract conform with all Acts of Parliament and with all orders, regulations and bye-laws made with statutory authority by Government Departments or by local or other authorities that shall be applicable to the Contract. The Contractor shall also observe through their Staff and work people any rules applicable to the premises where the installation is carried out. The Client shall on request afford all reasonable assistance to the Contractor in obtaining information as to local conditions. The Contractor shall not in the performance of the Contract in any manner endanger the safety or unlawfully interfere with the convenience of the public. The cost to the Contractor in meeting their requirements of this sub-clause shall be included in the price, except as provided under sub-clause 27.3.
- 27.2 The Contractor shall give the Client such prior written notice as the Client may require of the delivery under the Contract of any goods having a toxic hazard or other hazard to the safety or health of persons or property, identifying those hazards and giving full details of any precautions to be taken by the Client on the delivery of such Goods and their subsequent storage or handling, and shall at all times observe their obligations under Clause 25 of these Conditions.

27.3 In the event that either party incurs costs to which he would not otherwise be liable due to the other party's failure to comply with any law or any order, regulation or by-law having the force of law, the other party shall reimburse the amount of such costs.

## 28 DATA PROTECTION

28.1 Each Party shall comply with Data Protection Law in connection with this Contract. In particular each Party shall Process Personal Data of which the other is Data Controller only in accordance with Data Protection Law and this Contract.

28.2 Personal Data shall be treated as Confidential Information under this Contract.

28.3 Depending on the factual situation and the Personal Data concerned the Client and the Contractor may each act as either Data Controller or Data Processor in relation to Personal Data under this Contract. In particular:

28.3.1 the Client is the Data Controller of Personal Data concerning Residents and the Client's Staff; and

28.3.2 the Contractor is the Data Controller of Personal Data concerning the Contractor's Staff.

28.4 The subject-matter, nature and purpose and the duration of Processing and the types of Personal Data and categories of Data Subject in relation to which Personal Data may be Processed under this Contract are set out in the table in the Call-Off Contract.

28.5 Where either Party is the Data Processor of Personal Data of which the other Party is the Data Controller the Processing Party shall:

28.5.1 do so only on written instructions from the Data Controller (the first such instructions being those set out in this Contract) as revised by the Data Controller from time to time (where applicable) in accordance with clause 28.13;

28.5.2 promptly comply with the Data Controller's written instructions and requirements from time to time, including any requests to amend, delete or transfer Personal Data;

28.5.3 immediately inform the Data Controller if the Data Processor thinks that it has been given an instruction which does not comply with Data Protection Law;

28.5.4 take all reasonable steps to ensure the reliability and integrity of all persons (including Client's Staff and Contractor's Staff) whom that Party authorises to Process the Personal Data and ensure that those persons:

a. have committed themselves to confidentiality or are under an appropriate statutory obligation of confidentiality;

b. do not Process, publish, disclose or divulge any of the Personal Data other than in accordance with this Contract or the written instructions of the Data Controller; and

c. undergo adequate training in Data Protection Law, the confidentiality, security, use, care, protection and handling of Personal Data and the Data Processor's obligations under this Contract.

28.5.5 fully cooperate with and assist the Data Controller, by having appropriate technical and organisational measures in place, to give effect to the rights of Data Subjects and respond to requests for exercising the Data Subject's rights including Data Subject Access Requests;

28.5.6 Process the Personal Data in such a manner that ensures that at all times the Data Controller complies with Data Protection Law;

28.5.7 promptly forward any complaint, request (including a Data Subject Access Request), notice or other communication which relates directly or indirectly to the Personal Data or to either Party's compliance with Data Protection Law (including any request from the Information Commissioner), to the Data Controller and not respond to or otherwise deal with such communication except as instructed by the Data Controller or as required by Data Protection Law;

28.5.8 keep records of any Processing of Personal Data it carries out on behalf of the Data Controller which are sufficient to demonstrate compliance by the Data Controller and the Data Processor with Data Protection Law;

28.5.9 on request, provide the Data Controller promptly with all information that the Data Controller needs to show that both the Data Controller and Data Processor have complied with their data protection obligations under this Contract; and

28.5.10 at the option of the Data Controller, either irretrievably delete or return all Personal Data of which the other Party is Data Controller by the date set out in the table in the Call-Off Contract (unless the Data Processor is required by Law to retain that Personal Data).

28.6 A Party that Processes Personal Data shall maintain appropriate technical and organisational measures to protect that Personal Data against unauthorised or unlawful Processing and against accidental loss, destruction or damage having regard to:

28.6.1 the state of technological development;

28.6.2 the cost of implementing any measures;

28.6.3 the nature, scope, context and purpose of the Processing of the Personal Data; and

28.6.4 the harm that might result from any Personal Data Breach including the risk (which may be of varying likelihood and severity) for the rights and freedoms of natural persons.

28.7 Security measures maintained under clause 28.6 shall:

28.7.1 to the greatest extent possible involve pseudonymisation and encryption of Personal Data;

28.7.2 ensure the ongoing confidentiality, integrity, availability and resilience of the Data Processor's technical and IT systems;

28.7.3 ensure that the availability of and access to Personal Data can be restored promptly following a physical or technical incident; and

28.7.4 include regular testing, assessing and evaluating of the effectiveness of the technical and organisational measures to ensure the security of Processing.

28.8 Neither Party shall transfer any Personal Data of which the other is Data Controller outside of the European Union without the prior written consent of the Data Controller. Where the Data Controller consents to such a transfer, the Data Processor shall ensure there is adequate protection, as approved by the Data Controller, for such Personal Data in accordance with Data Protection Law.

28.9 A Party acting as Data Processor shall notify the Data Controller immediately if it becomes aware of any Personal Data Breach (however caused). Such notification must:

28.9.1 describe the nature of the breach including the categories and number of Data Subjects and records concerned;

28.9.2 communicate the name and contact details of all persons from whom more information can be obtained about the breach;

28.9.3 describe the likely consequences of the breach; and

28.9.4 describe the measures taken by Data Processor and the measures which the Data Processor wishes the Data Controller (at the expense of the Data Processor) to take to address the breach and mitigate its possible adverse effects.

28.10 The Data Processor shall give the Data Controller immediate and full co-operation and assistance in relation to any such Personal Data Breach including:

28.10.1 taking all reasonable steps the Data Controller requires to assist in the containment, mitigation, remediation and investigation of such breach;

28.10.2 providing assistance with notifying the Information Commissioner's Office or affected Data Subjects of any breach of Data Protection Law; and

28.10.3 providing the Data Controller promptly with all relevant information in the Data Processor's possession.

- 28.11 A Party that Processes Personal Data as Data Processor shall provide reasonable assistance to the Data Controller where the Data Controller is required by Data Protection Law to carry out any privacy impact assessment or data protection impact assessment in relation to Processing Personal Data.
- 28.12 A Party that is a Data Controller may inspect and audit the other Party's facilities for Processing the Personal Data of which it is Data Controller to ensure they comply with this Contract and Data Protection Law.
- 28.13 A Party that is a Data Controller may revise their instructions to the Data Processor on the Processing of Personal Data at any time if this is necessary or desirable to comply with Data Protection Law. Such revision shall not entitle either Party to any additional payment, lead to any paid or unpaid extension of time or be treated as a variation to this Contract. The Data Controller shall use reasonable endeavours to give the Data Processor as much notice of the revision as possible, consistent with their obligation to comply with Data Protection Law and protect against any Personal Data Breach
- 28.14 Nothing in this Contract requires either Party to disclose any information to the other Party or any third party if to do so would breach Data Protection Law. If any part of this clause 28 does not comply with Data Protection Law, the Client and Contractor shall seek direction from the Procurement Agent as to the minimum amendments necessary to ensure compliance. The Parties agree that such amendment shall not be regarded as a variation to this Contract.
- 28.15 Where the Procurement Agent directs, the Parties shall replace this clause with any applicable Data Controller to Data Processor standard clauses forming part of an applicable certification scheme (as defined under Data Protection Law). The Parties agree that such amendment shall not be regarded as a variation to this Contract."

## 29 **WAIVER**

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

## 30 **CONFIDENTIALITY**

- 30.1 The Contractor and the Client shall keep confidential all information of the other party obtained under or in connection with the Contract, whether such information (which shall include, but not be limited to, information obtained by the Contractor when visiting the Client's site) is related to the Contract or otherwise, and shall not divulge the same to any third party without written consent of the other party.
- 30.2 The provisions of this clause shall not apply to any information in the public domain, other than in breach of contract, or information obtained from a third party who is free to divulge the information concerned. The Contractor and the Client are able to disclose confidential information if it is required by law, or a competent authority (under the provision that it informs the other party with immediate effect).
- 30.3 The Contractor and the Client shall divulge confidential information only to those employees, including the agents and/or employees of any authorised sub-

contractor in accordance with sub-clause 30.6 below, who are directly involved in the Contract and/or the Installation and/or use of the Goods and/or provision of the Services, and shall ensure that such employees are aware of and comply with these obligations as to confidentiality.

- 30.4** Where Goods, or specific parts thereof are deemed to be beyond economic repair and/or the Contractor elects to replace parts under the provisions of the warranty service in accordance with Clause 22, and the Goods and/or parts thereof have, or are likely to have, data stored, the Contractor must undertake to ensure that, and shall be responsible to ensure that, all data is erased before disposal. Where requested by the Client, the Contractor must provide appropriate certification to confirm erasure. In appropriate circumstances, the Client reserves the right to request that relevant Goods, and/or specific parts or components are returned to the Client for disposal should the Contractor be unable to issue appropriate certification. Such requests shall be made by the Client in writing and it shall be for the Client to identify any Goods that may contain data of a sensitive and/or confidential nature.
- 30.5** In circumstances where the Contractor is a dealer or agent of the original equipment manufacturer, the Contractor must obtain a written policy statement regarding the disposal of Goods upon which data is stored. Such a statement so submitted shall not excuse the Contractor from employing reasonable endeavours to ensure that their obligations with regard to this clause are met.
- 30.6** The Contractor must ensure that its sub-contractors are bound by the requirements of this clause, and shall be held responsible for any breaches of confidentiality committed by them.
- 30.7** Either party may request that access be granted to Goods which have held upon them confidential information by third parties other than the Client or the Contractor, and/or authority be given to use confidential information for specific purposes. Such requests shall not be unreasonably withheld and access and/or authority shall be granted as far as the party concerned is legally able so to do. In such circumstances, however, requests must be issued in writing and any confidential information released in accordance with this sub-clause 30.7 shall be held in strictest confidence and, upon request of either party, may be the subject of a separate commercial confidentiality certificate, the terms and conditions of which shall be agreed at the appropriate time.
- 30.8** Without prejudice to the obligations of the parties as set out in this Clause 30, neither party shall publicise or otherwise advertise the existence of the Contract, including, but not limited to, any details of the Contract unless otherwise agree in writing by the other party.
- 30.9** The provisions of this clause shall continue for a period of 10 (ten) years from the date of the Contract, notwithstanding the cancellation, termination or discharge of the Contract.

## **31 OPERATIONAL MANUALS**

The Contractor shall supply to the Client all operating manuals and other documentation necessary for the satisfactory operation of the Goods or as specified in the Purchase Order. If, after the Delivery and/or acceptance date, the

operating manuals and documentation need updating or replacing the Contractor shall be responsible for notifying the Client of the availability of such updates or replacements, and shall supply them at reasonable prices, upon receipt of appropriate order documentation. The Contractor shall provide the operating manuals and other documentation in the media format in which it is available at the appropriate time.

## 32 **DISPUTE RESOLUTION**

- 32.1 The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Contract within 20 working days of either party notifying the other of the dispute. Such efforts shall involve the escalation of the dispute to the managing director (or equivalent) of each party.
- 32.2 Nothing in this dispute resolution procedure shall prevent the parties from seeking from any Court of competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.
- 32.3 If the dispute cannot be resolved by the parties pursuant to clause 32.1 the dispute shall be referred to mediation unless either party genuinely believes that the dispute is not suitable for resolution by mediation.
- 32.4 The performance of the Contract shall not be suspended, ceased or be delayed by reason of the dispute and the Contractor shall (and shall ensure that its Staff or such professional advisers or consultants) comply fully with the requirements of the Contract at all times.
- 32.5 In the event that any mediation proves unsuccessful, or the dispute is not suitable for mediation, then either party may take such further action as it deems appropriate to pursue resolution of the dispute.

## 33 **PROPERTY AND RISK**

Property and risk in the subject matters of the Purchase Order/Contract shall pass to the Client on delivery, provided that such passing shall not prejudice either the Client's right to reject for non-conformity with specification. Title but not risk shall pass to the Client when the supplier has received full and clear payment for such items. All items so allocated shall be adequately marked and recorded as being the property of the Client, and where such items are stored on the Contractor's site, held in a separate bonded area suitable for such storage purposes.

## 34 **SUSPENSION**

In the event of any interruption of the Client's business due to circumstances beyond the Client's reasonable control such as but not limited to any dispute, fire, explosion or accident which would prevent or hinder the use of goods or services which are the subject of the Purchase Order/Contract, the Client shall have the right to suspend the Purchase Order/Contract until such circumstances have ceased.

35      **LAW**

The construction validity and performance of the Contract shall be governed by the Law of England and Wales and subject to the exclusive jurisdiction of the English courts.

**DATED**

**2015**

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**PROCUREMENT FOR HOUSING LIMITED (1)**

**and**

**TOSHIBA TEC UK IMAGING SYSTEMS LIMITED (2)**

**and**

**INPROVA LIMITED (3)**

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**FRAMEWORK AGREEMENT**

**for Print & Multifunctional Device Solutions**

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### **Documents referred to in this Framework Agreement**

1. Contract Management Agreement
2. Invitation to Tender
3. Parent Company Guarantee
4. Pre-qualification Questionnaire
5. Terms and Conditions ('Call-Off')

**THIS FRAMEWORK AGREEMENT** is dated

**28<sup>th</sup> September 2016**

**BETWEEN**

- (1) **PROCUREMENT FOR HOUSING LIMITED** a company limited by guarantee (company number 07662661 as represented by its procurement agent, Inprova Limited of 2 Olympic Park, Woolston Grange, Warrington Cheshire, WA2 0YL ("**PfH**"); and
- (2) **TOSHIBA TEC IMAGING SYSTEMS LIMITED** (company number 04124726) of 160 Queen Victoria Street, London, EC4V 4BF (the "**Supplier**"); and
- (3) **INPROVA LIMITED** of 2 Olympic Park, Woolston Grange, Warrington Cheshire, WA2 0YL ("**Procurement Agent**").

**INTRODUCTION**

- (A) PFH is a Contracting Authority (as defined in clause 3(1) (w) of the Regulations) and the members of PfH are entitled to call-off Goods and Associated Services in accordance with the provisions of this Framework Agreement.
- (B) Pursuant to a services concession contract PfH has granted Housemark Ltd a company registered in England and Wales with company number 03822761 ("**Housemark**") the exclusive right as concessionaire to operate and manage a purchasing consortium on behalf of PfH for the benefit of its members.
- (C) The Procurement Agent has been appointed by Housemark as its sub-contractor to provide procurement services on behalf of PfH for the benefit of the members of PfH.
- (D) PFH dispatched a contract notice, reference 2016/S 079-139608 in the Official Journal of the European Union on 18<sup>th</sup> April 2016 seeking expressions of interest from Suppliers for Print & Multifunctional Device Solutions to members of PfH under a framework agreement.
- (E) The Supplier submitted its expression of interest on 21<sup>st</sup> April 2016 in response to the contract notice.
- (F) PfH invited potential parties (including the Supplier) on 6<sup>th</sup> June 2016 to tender for Print & Multifunctional Device Solutions.
- (G) The Supplier submitted a tender on Wednesday 18<sup>th</sup> May.
- (H) On the basis of the Supplier's tender, the Procurement Agent on behalf of PfH, selected the Supplier to enter into a framework arrangement to provide Print & Multifunctional Device Solutions to the Clients on a call-off basis in accordance with this Framework Agreement.
- (I) The Framework Agreement sets out the award and ordering procedure for the purchase of Print related products and associated services which may be required by Clients, the main terms and conditions for any call-off contract which Clients may conclude, and the obligations of the Supplier during and after the term of this Framework Agreement.

- (J) It is the intention of the parties that there will be no obligation for any Client to award any orders under this Framework Agreement to the Supplier during the Term.

## AGREEMENT

### 1 DEFINITIONS AND INTERPRETATION

- 1.1 IN THIS FRAMEWORK AGREEMENT (WHICH INCLUDES THE INTRODUCTION AND SCHEDULES) THE FOLLOWING WORDS AND EXPRESSIONS HAVE THE FOLLOWING MEANINGS:

<b>"Charging Structure"</b>	the charges, or pricing mechanism, for Goods and Associated Services as set out in the Tender;
<b>"Client"</b>	a member of Procurement for Housing (PfH);
<b>"Confidential Information"</b>	any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, known-how, personnel and suppliers of a party, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential;
<b>"Contract"</b>	the contract entered into between the Client and the Supplier in accordance with this Framework Agreement;
<b>"Contract Award Notice"</b>	<i>[TBC as soon as available from OJEU]</i>
<b>"Contract Management Agreement"</b>	the Contract Management Agreement to be entered into by the Supplier and the Procurement Agent as set out in Schedule 2;
<b>"Commencement Date"</b>	the date of this Framework Agreement;
<b>"Data Protection Requirements"</b>	the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;

<b>"Extended Period"</b>	a term of 1 year after the expiry of the Term and an additional 1 year thereafter (up to a maximum term of 4 years from the Commencement Date);
<b>"Intellectual Property Rights"</b>	patents, trade marks, service marks, design rights (whether registrable or otherwise), applicable for any of the foregoing, copyright, database rights, trade or business names and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom)
<b>"Management Charge"</b>	the charges payable by the Supplier to the Procurement Agent in accordance with the provisions of the Contract Management Agreement;
<b>"Purchase Order"</b>	the purchase order submitted by the Client to the Supplier, subject to the Terms and Conditions, setting out the Goods and Associated Services it wishes to purchase from the Supplier;
<b>"Quantum Service"</b>	the Quantum Service that is offered to a Client as a benefit of becoming a member of PfH;
<b>"Regulations"</b>	the Public Contract Regulations 2015 and any regulations of statutes appertaining generally to procurement in the public sector;
<b>"Goods and Associated Services"</b>	the goods and associated services described in the Tender;
<b>"Service Level Agreement"</b>	the Service Level Agreement that sets out the service levels that the Supplier must adhere to relevant to the provision of Goods and/or Services to Clients as set out in Schedule 3;
<b>"Tender"</b>	the tender submitted by the Supplier to the Procurement Agent, the subject of the Contract Award Notice;
<b>"Term"</b>	the period of two years from the Commencement Date;
<b>"Terms and Conditions"</b>	the Terms and Conditions, as set out in Schedule 1; and
<b>"Working Day"</b>	any day other than a Saturday, Sunday or public holiday in England and Wales.

- 1.2 In this framework agreement (unless the context requires otherwise):
- 1.2.1 Any reference to any statute, statutory provision or subordinate legislation is to be construed as a reference to the same as it may have been, or may from time to time be, amended, modified, consolidated or re-enacted and enforced;
  - 1.2.2 Any reference to a statute or statutory provision includes any subordinate legislation made under it;
  - 1.2.3 Any phrase introduced by the terms 'including', 'include', 'in particular' or a similar expression shall be construed as illustrative and shall not limit the sense of the words to which those terms refer;
  - 1.2.4 Words importing the singular meaning include the plural meaning and vice versa; and
  - 1.2.5 Words importing the masculine include the feminine and vice versa.

## 2 **Procurement agent**

Housemark exercising its rights as concessionaire of PfH has appointed the procurement agent as agent for PfH to supply procurement services in the public sector for the benefit of members of PfH. Any instruction from or notice or consent given by the procurement agent shall be dealt with by the supplier as if it was provided by PfH.

## 3 **Term of framework agreement**

- 3.1 The framework agreement shall take effect on the commencement date and shall expire automatically at the end of the term unless:
- 3.1.1 It is otherwise terminated in accordance with the terms of this framework agreement;
  - 3.1.2 It is otherwise lawfully terminated; or
  - 3.1.3 It is extended in accordance with the provisions of the contract award notice.

## 4 **Scope of this framework agreement**

- 4.1 This framework agreement governs the relationship between PfH and the supplier in respect of the provision of the supply of goods and associated services by the supplier to the clients.
- 4.2 The clients may at their absolute discretion and from time to time order goods and associated services from the supplier in accordance with clause 6 during the term.
- 4.3 The supplier acknowledges that there is no obligation whatsoever for any client to purchase any goods and associated services from the supplier during the term.

- 4.4 The supplier acknowledges that no guarantee has been provided by PfH and any client in respect of the total quantities, or values, of the goods and associated services to be ordered by them pursuant to this framework agreement and the supplier acknowledges and agrees that it has not entered into this framework agreement on the basis of any such guarantee.
- 4.5 Unless the supplier, in its acknowledgement of the client's purchase order states that it is unable to fulfil the purchase order the supplier shall provide to that client such goods and associated services in accordance with all applicable provisions of the relevant contract.
- 4.6 Any contract entered into under this framework agreement shall commence on the date of the execution of that contract and shall expire on the date specified in the contract.
- 4.7 The supplier undertakes that during the term it will not approach any client direct and will only enter into a contract in accordance with the provisions of this framework agreement. The supplier agrees that if it acts in breach of this clause that this seriously undermines the framework agreement and PfH, and if in breach agrees that it will pay damages to the procurement agent, such damages to be assessed by a court if not agreed between the parties.

## 5 **Goods and Associated Services**

- 5.1 The client is entitled to call-off any goods and associated services pursuant to the provisions of this framework agreement. The client is not bound to purchase all its requirements or any given value or volume from the supplier.
- 5.2 The supplier shall enter into a contract upon the basis of the terms and conditions in accordance with the provisions of this framework agreement.
- 5.3 If the client and the supplier agree any amendments to the terms and conditions, the parties agree that in accordance with the regulations there will be no substantive change to the specification of the terms and conditions which were agreed at the time that this framework agreement was awarded.

## 6 **Method of call-off**

- 6.1 On each occasion that the client wishes to call-off specific goods and associated services under this framework agreement, a Call-Off Contract shall be entered into between the client and the supplier, agreed and signed by both parties, specifying the goods and associated services required, the contract value, price, date the supply of goods and associated services are required to commence, the term of the Call-Off Contract, delivery address (for associated services), any specialist instruction and to whom the invoice should be addressed.
- 6.2 The supplier acknowledges that the client may wish to raise an official purchase order for ad-hoc services, such as but not limited to, the production of print related products and associated services, throughout the term and under the remit of the agreed Call-Off Contract associated with this Framework Agreement.
- 6.3 The supplier acknowledges that each client is independently responsible for the agreement to a Call-Off Contract and/or submission of a purchase order to the

supplier under this framework agreement and that PfH, or the procurement agent, is not responsible or accountable for the conduct of the client in relation to this framework agreement. It is for the client to decide the methodology of selecting the supplier to provide goods and associated services having due regard to the regulations.

- 6.4 The supplier agrees that unless a contract is entered into in accordance with these provisions that it will not constitute a contract under this framework agreement.
- 6.5 In the event that the client wishes to issue a purchase order for ad-hoc services, the supplier shall, within two working days of receipt of a purchase order, either:
  - 6.5.1 Acknowledge in writing receipt of the purchase order and state its acceptance of that purchase order; or
  - 6.5.2 Acknowledge in writing receipt of that purchase order and state that it is unable to fulfil the purchase order.
- 6.6 If the supplier does not reject the purchaser order within two working days of receipt it shall be deemed to have accepted the purchaser order for the purposes of this agreement.
- 6.7 In the event that the supplier accepts or is deemed to have accepted the purchase order, a contract will be created subject to the:
  - 6.7.1 Terms and conditions;
  - 6.7.2 Service level agreement; and
  - 6.7.3 Quantum Service if used by a client.

## 7 **Charges for the supply of goods and associated services**

- 7.1 The supplier will charge the client for any goods and associated services supplied to the client in accordance with the charging structure.
- 7.2 The procurement agent may benchmark the charging structure at any time during the term in order to compare the charging structure with charges offered by third parties. The procurement agent shall be entitled to use any model to determine the achievement of value for money to carry out the aforementioned benchmarking evaluation, and will be entitled to publish the results of any benchmarking of the charging structure to the clients.
- 7.3 The supplier shall use all reasonable endeavours and act in good faith to supply information required by the procurement agent in order to undertake the benchmarking exercise and such information required is to be at the reasonable discretion of the procurement agent.

## 8 Management information

- 8.1 The supplier shall, at no charge to PfH or the procurement agent, submit management information to the procurement agent in such form and such time as reasonably requested by the procurement agent throughout the term.
- 8.2 The supplier shall implement a processing system, as reasonably agreed, that identifies and records all contracts.

## 9 Contract management agreement

- 9.1 Simultaneously with the execution of this framework agreement the supplier will execute the contract management agreement.
- 9.2 In consideration of the:
- 9.2.1 Management and administration by the procurement agent of this framework agreement; and
  - 9.2.2 The overall contractual structure; and
  - 9.2.3 Other benefits the supplier may receive pursuant to the provisions of the contract management agreement,
  - 9.2.4 **The supplier has agreed to pay the management charge to the procurement agent.**

## 10 Amendments to this framework agreement

No amendment to the provisions of this framework agreement shall be effective unless agreed in writing between the procurement agent and the supplier.

## 11 Communications

- 11.1 Except as otherwise expressly provided, no communication from one party to the other shall have any validity under this framework agreement unless made in writing by or on behalf of the party sending such communication.
- 11.2 Any notice or other communication which either the procurement agent or the supplier is required or authorised by this framework agreement to give or make to the other shall be given or made by special, or guaranteed delivery addressed to the other at the address specified in clause 11.3.
- 11.3 For the purpose of clause 11.2 the address of each party shall be:
- For PfH: Inprova Ltd, 2 Olympic Way, Woolston Grange, Birchwood, Warrington Cheshire, WA2 0YL.
- For the supplier: 160 QUEEN VICTORIA STREET, LONDON, EC4V 4BF

## 12 **Financial standing of the supplier**

- 12.1 The procurement agent may from time to time during the term assess the financial standing of the supplier. The procurement agent may base its assessment of the financial standing of the supplier by reference to the methodology used in the invitation to tender and any other reasonable measure of financial standing determined by the procurement agent including the credit rating(s) of the supplier as published by a recognised credit rating agency such as Equifax or an equivalent body.
- 12.2 In the event that the procurement agent considers that the financial status of the supplier represents a risk to the supplier's ability to perform its obligations under contracts the procurement agent will discuss that risk with the supplier. If following these discussions the procurement agent remains of the view there is still a risk it will discuss the matter with Housemark in its capacity as concessionaire of PfH.
- 12.3 If, following discussions with Housemark the conclusion is that there remains a risk the procurement agent may by notice in writing either:
- 12.3.1 Forbid the supplier from entering into further Call-Off Contracts with clients and accepting further purchase orders from clients without specific prior written agreement from the procurement agent; or
  - 12.3.2 Terminate this framework agreement.

## 13 **Term, suspension and termination**

- 13.1 This framework agreement shall commence on the commencement date and shall remain in force for the term, unless terminated earlier pursuant to this clause 13.
- 13.2 The procurement agent shall have the right to extend this framework agreement beyond the term for the extended period providing that it serves notice of such extension no later than four months before the end of the term.
- 13.3 The procurement agent may terminate this framework agreement by serving notice on the supplier in writing with effect from the date specified in such notice where the supplier is in breach of the framework agreement and:
- 13.3.1 The supplier has not remedied the breach to the satisfaction of the procurement agent within 30 working days after issue of a written notice specifying the breach and requesting it to be remedied;
  - 13.3.2 The breach is not, in the reasonable opinion of the procurement agent, capable of remedy;
  - 13.3.3 The breach is a material breach;
  - 13.3.4 If the supplier fails to pay the management charge within seven days of a written reminder from the procurement agent;

- 13.3.5 The supplier solicits the business of a client in an attempt to circumvent the provisions of this framework agreement and to enter into a contract and avoid the payment of the management charge;
- 13.3.6 Has made any serious misrepresentations in the tendering process for any project or matter in which the public sector has or had a significant participation.
- 13.4 The termination of this framework agreement shall not affect the validity of any existing contracts. For the avoidance of doubt, the supplier will continue to pay the management charge in relation to such contracts notwithstanding the termination of this framework agreement.
- 13.5 The procurement agent may terminate the framework agreement by serving a written notice upon the supplier with immediate effect from the date specified in such notice where the supplier has committed three or more breaches in any 12 month period.
- 13.6 The procurement agent may terminate the framework agreement by serving notice on the supplier in writing with effect from the date specified in such notice where one of the following insolvency events occurs in relation to the supplier:
  - 13.6.1 The supplier is an individual or a firm and a petition is presented for the supplier bankruptcy, or a criminal bankruptcy order is made against the supplier or any partner in the firm, or the supplier or any partner in the firm makes any composition or arrangement with or for the benefit of creditors, or makes any conveyance or assignment for the benefit of creditors, or if an administrator is appointed to manage the supplier's or firm's affairs; or
  - 13.6.2 The supplier is a company, if the company passes a resolution for winding up or dissolution (otherwise than for the purposes of and followed by an amalgamation or reconstruction) or an application is made for, or any meeting of its directors or members resolves to make an application for an administration order in relation to it or the company gives or files notice of intention to appoint an administrator of it or such an administrator is appointed or the court make a winding up order, or the company makes a composition or arrangement with its creditors, or an administrative receiver, receiver, manager or supervisor is appointed by a creditor or by the court, or possession is taken of any of its property under the terms of a fixed or floating charge; or
  - 13.6.3 Where the supplier is unable to pay its debts within the meaning of section 123 of the insolvency act 1986; or
  - 13.6.4 Any similar event occurs under the law of any other jurisdiction.
- 13.7 The procurement agent may terminate the framework agreement upon 90 days written notice if in the reasonable opinion of the procurement agent there is a material change, without limitation, in the economic or political climate, or

regulatory conditions, which has the effect of making this framework agreement commercially unviable.

#### 14 **Post termination provisions**

14.1 Upon the termination, or expiry, of this framework agreement the following provisions will apply:

14.1.1 Within 14 days of such termination, or expiry, the supplier will provide a list of "live" contracts which continue to survive until a date after the expiry, or termination, of this framework agreement. Such list must contain the end date of the relevant contracts;

14.1.2 The supplier will enter into reasonable and commercial discussions with the procurement agent to try and achieve a lump sum settlement of the financial obligations that continue to exist as referred to in clause 14.1.1 above;

14.1.3 The supplier will immediately cease to confirm in any manner that it is associated with PfH or the procurement agent;

14.1.4 The supplier will continue to pay the management charge, unless this is compromised by way of a lump sum payment, in accordance with clause 13.4;

14.1.5 The procurement agent will continue to provide the quantum service, on a transitional basis, for a period of 3 months to facilitate payment to the supplier for goods and associated services provided, but not paid for, as at the date of expiry, or termination.

#### 15 **Suspension**

15.1 Without prejudice to the procurement agent's right to terminate the framework agreement the procurement agent may at any time by notice in writing suspend the right of the supplier to accept further purchase orders without specific prior written agreement from the procurement agent in the event that:

15.1.1 The supplier fails to submit management information in respect of goods and services, in accordance with the provisions of clause **8**; or

15.1.2 The supplier fails to pay the management charge in accordance with the provisions of clause **9**.

#### 16 **Limitation of liability**

16.1 Neither PfH, the procurement agent nor the supplier excludes or limits liability to the other for death or personal injury or any breach of any obligations implied by section 12 of the sale of goods act 1979 (as amended) or section 2 of the supply of goods and services act 1982 (as amended) or for fraud or fraudulent misrepresentation.

16.2 Subject always to the provisions of clauses 16.1 in no event shall PfH, the procurement agent or the supplier be liable to the other for:

16.2.1 Any type of indirect or consequential or special loss or damage and/or;

16.2.2 Loss of profit, business, revenue, goodwill, opportunity or anticipated savings.

16.3 The exclusion of liability set out in clause 16.2 shall apply regardless of whether or not such losses were foreseeable or in the contemplation of the parties at the commencement of the framework agreement or one party was advised of the possibility of the other suffering such losses.

16.4 Subject to clause 16.1, the total liability of each of the parties for any claim or the total of all claims arising out of any act or default of that party (whether in contract, tort, or for breach of statutory duty or otherwise) shall in no event exceed the sum of £1 million.

## 17 **Complaints handling**

17.1 The supplier shall inform the procurement agent of any complaint received from a client within five working days of becoming aware of that complaint.

17.2 The supplier shall use all reasonable endeavours to resolve the complaint and in so doing shall deal with the complaint fully, expeditiously and fairly.

17.3 Within three working days of a request by the procurement agent the supplier shall provide full details of the steps taken to resolve the complaint.

## 18 **Data protection**

18.1 The supplier's attention is drawn to the data protection requirements. PfH, the procurement agent and the supplier shall observe their obligations, and comply with such obligations, under the data protection requirements.

## 19 **Confidentiality**

19.1 Each party shall treat all confidential information belong to the other parties as confidential and safeguard it accordingly and shall not disclose any confidential information belonging to another party to any other person without the prior written consent of that party, except to such persons and to such extent as may be necessary for the performance of the framework agreement or except where disclosure is otherwise permitted by the provisions of the framework agreement.

19.2 The supplier shall not use any confidential information it receives from the procurement agent or PfH other than for the purposes of the framework agreement.

19.3 The provisions of clause 19.1 - 19.2 shall not apply to any information which:

19.3.1 Is or becomes public knowledge other than by a breach of this clause 19; or

19.3.2 Is in the possession of the recipient without restriction before the date of receipt from the disclosing party; or

- 19.3.3 Is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
- 19.3.4 Is independently developed without access to the confidential information; or
- 19.3.5 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 freedom of information act 2000 or the environmental information regulations 2004.

## 20 **Publicity**

- 20.1 The supplier shall not make any press announcement or publicise this framework agreement in any way without the prior written consent of the procurement agent.
- 20.2 The supplier shall not do anything or cause anything to be done, which may damage the reputation of PfH or bring PfH into disrepute.

## 21 **Dispute resolution**

- 21.1 The parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the framework agreement within 20 working days of either party notifying the other of the dispute. Such efforts shall involve the escalation of the dispute to the managing director (or equivalent) of each party.
- 21.2 Nothing in this dispute resolution procedure shall prevent the parties from seeking from any court of competent jurisdiction an interim order restraining the other party from doing any act or compelling the other party to do any act.
- 21.3 If the dispute cannot be resolved by the parties pursuant to clause 21.1 the dispute shall be referred to mediation unless either party genuinely believes that the dispute is not suitable for resolution by mediation.
- 21.4 The performance of the framework agreement shall not be suspended, ceased or be delayed by reason of the dispute and the supplier shall (and shall ensure that its staff or such professional advisers or consultants) comply fully with the requirements of the framework agreement at all times.
- 21.5 In the event that any mediation proves unsuccessful then either party may take such further action as it deems appropriate to pursue resolution of the dispute.

## 22 **Insurance**

- 22.1 The supplier shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the supplier under any contract, including death or personal injury, or loss of or damage to property.
- 22.2 The supplier shall hold and maintain the following insurances for the duration of the contracts:

22.2.1 Public liability insurance adequate to cover all risks in the performance of the contracts from time to time;

22.2.2 Employer's liability insurance.

22.3 The supplier shall produce copies of all insurance policies referred to in this clause upon request by the procurement agent.

## 23 **Goods requirements**

23.1 The supplier shall:

23.1.1 Notify the procurement agent of all statutory provisions and approved standards applicable to the supply of goods and associated services and their provision and shall be responsible for obtaining all licences, consents or permits required for the performance of this framework agreement and contracts;

23.1.2 Inform the procurement agent and the clients if the goods and associated services are hazardous to health or safety and of the precautions that should be taken in respect thereto;

23.1.3 Take all measures necessary to comply with the requirements of the health and 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 in the performance of this framework agreement and contracts.

## 24 **Environmental requirements**

24.1 The supplier shall:

24.1.1 Comply in all material respects with all applicable environmental laws and regulations in force from time to time in relation to the goods and associated services. Without prejudice to the generality of the foregoing, the supplier shall promptly provide all such information regarding the environmental impact of the goods and associated services as may reasonably be requested by the procurement agent;

24.1.2 Meet all reasonable requests by clients for information evidencing compliance with the provisions of this clause 24 by the supplier.

## 25 **Non-discrimination**

25.1 The supplier shall:

25.1.1 Not unlawfully discriminate within the meaning and scope of the provisions of the sex discrimination act 1975, the race relations act 1976, the disability discrimination act 1995, the employment equality (religion or belief) regulations 2003, the employment equality (sexual orientation) regulations 2003, the employment equality (age) regulations 2006 or any statutory modification or re-enactment

thereof or any other law relating to discrimination in employment;  
and

25.1.2 Take all reasonable steps to secure the observance of the provisions of clause 25.1 by sub-contractors employed in the execution of contracts under this framework agreement.

## 26 **Transfer and sub-contracting**

26.1 This framework agreement is personal to the supplier. The supplier shall not assign, novate, sub-contract or otherwise dispose of this framework agreement or any part thereof without the previous consent in writing of the procurement agent.

26.2 PfH shall be entitled to assign, novate or otherwise dispose of its rights and obligations under this framework agreement or any part thereof to any contracting authority providing that where such assignment, novation or other disposal increases the burden of the supplier's obligations pursuant to this framework agreement, the supplier shall be entitled to such charges as maybe agreed between the procurement agent and the supplier to compensate for such additional burdens.

## 27 **Audit**

27.1 The supplier shall keep and maintain until 7 years after the termination or expiry (whichever is the earlier) of this framework agreement, full and accurate records and accounts relevant to

27.1.1 This framework agreement;

27.1.2 Supply of goods and associated services provided under it;

27.1.3 The contracts entered into with clients and the amounts paid by each client;

27.1.4 The contract management agreement; and

27.1.5 The calculation of the management charge.

27.2 The supplier shall keep the records and accounts referred to in the preceding clause in accordance with good accountancy practice.

27.3 The supplier shall grant authority to the procurement agent, any authorised agents, the right of reasonable access to any premises of the supplier which are used in connection with the performance of the supplier's responsibilities and obligations under this framework agreement and in relation to any contract, together with a right to reasonable access to all such records, and to take copies of such records. For the avoidance of doubt, the procurement agent shall be entitled to carry out audits to determine whether the supplier has performed its obligations under:

27.3.1 Any contract;

- 27.3.2 This framework agreement;
- 27.3.3 The contact management agreement (including the calculation of the management charge);

Collectively defined as the "agreements" for the purpose of this clause 27.

- 27.4 Further to the provisions of clause 27.3 the supplier shall provide, or procure the provision of, all reasonable assistance at all times for the purposes of carrying out an audit of the supplier's compliance with the agreements as well as an audit of all activities, performance, security and integrity in connection therewith.
- 27.5 The procurement agent shall use all reasonable endeavours to ensure that any audit, pursuant to this clause 27, causes the minimum amount of disruption to the business of the supplier, and shall comply with the building regulations and security requirements of the supplier while on the supplier's premises.
- 27.6 The procurement agent reserves the right to publish to clients the result of any audit exercise undertaken pursuant to this clause 27. The procurement agent will invite the supplier to comment on the results of the audit exercise and the proposed publicity material and will take account of those comments to the extent that it deems fit in any publication. In this respect, the supplier shall provide comments to the procurement agent within five working days.

## 28 **Customer satisfaction monitoring**

- 28.1 The procurement agent may undertake monitoring of client satisfaction concerning the performance of the supplier in relation to the contracts.
- 28.2 The procurement agent shall adopt such mechanisms as it may deem appropriate for monitoring client satisfaction.
- 28.3 The procurement agent reserves the right to advise clients of the findings of its client satisfaction monitoring, which shall include the right to make available, in paper or electronic form, statistical information derived from any client satisfaction questionnaires issued by the procurement agent to clients.

## 29 **Statutory invalidity**

The procurement agent and the supplier expressly agree that should any limitation or provision contained in this framework agreement or a contract be held to be invalid under any particular statute or law, or any rule, regulation, or bye-law having the force of law, it shall to that extent be deemed to be omitted but, if PfH, the procurement agent or the supplier thereby becomes liable for loss or damage which would have otherwise been excluded, such liability shall be subject to the other limitations and provisions set out herein.

## 30 **Severability**

Subject to the provisions of clause 29, if any provision of this framework agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if this framework agreement had been executed with the

invalid provision eliminated. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of this framework agreement, the procurement agent and the supplier shall immediately commence good faith negotiations to remedy such invalidity.

31 **Waiver**

31.1 The failure of the supplier or the procurement agent to insist upon strict performance of any provision of this framework agreement or to exercise any right or remedy to which it is entitled hereunder, shall not constitute a waiver thereof and shall not cause a diminution of the obligations established by this framework agreement.

31.2 A waiver of any default shall not constitute a waiver of any other default.

31.3 No waiver of any of the provisions of this framework agreement shall be effective unless it is expressed to be a waiver communicated by notice in accordance with the provisions of clause 11.

32 **Non-exclusivity**

For the avoidance of doubt, nothing in this framework agreement shall create an exclusive relationship between the supplier and any client for the provision of goods.

33 **Law and jurisdiction**

Each of the parties accepts the exclusive jurisdiction of the English courts and agrees that this framework agreement is to be governed by and construed according to English law.

34 **Entire agreement**

34.1 This framework agreement constitutes the entire understanding between PfH, the procurement agent and the supplier relating to the subject matter.

34.2 Neither PfH, the procurement agent or the supplier has relied upon any representation or promise except as expressly set out in this framework agreement and (in the case of PfH and the procurement agent) in any responses given by the supplier to the invitation to tender or in the pre-qualification questionnaire.

34.3 PfH, the procurement agent and the supplier unconditionally waive any rights it may have to claim damages against the other on the basis of any statement made by the other (whether made carelessly or not) not set out or referred to in this framework agreement (or for breach of any warranty given by the other not so set out or referred to) unless such statement or warranty was made or given fraudulently.

34.4 PfH, the procurement agent and the supplier unconditionally waive any rights it may have to seek to rescind this framework agreement on the basis of any statement made by the other (whether made carelessly or not) whether or not

such statement is set out or referred to in this framework agreement unless such statement was made fraudulently.

This agreement was entered into on the commencement date.

**SIGNED** by (print name)  
for the Supplier

**JOB TITLE/POSITION** (of printed name) COMPANY SECRETARY M LANUCALDES

**SIGNATURE** (of printed name)

  
.....

**DATE** (of signature DD/MM/YYYY)

13/10/16

**SIGNED** by (print name)  
for Procurement for Housing acting by its  
authorised Procurement Agent

**JOB TITLE/POSITION** (of printed name)

**SIGNATURE** (of printed name)

.....

**DATE** (of signature DD/MM/YYYY)

**SIGNED** by (print name)  
for the Procurement Agent

**JOB TITLE/POSITION** (of printed name)

**SIGNATURE (of printed name)**

.....

**DATE** (of signature DD/MM/YYYY)

## **SCHEDULE 1**

### **Terms and Conditions ('Call-Off')**

As issued at Invitation to Tender (Appendix L)



Appendix N - Call  
Off Terms & Condi

## **SCHEDULE 2**

### **Contract Management Agreement**

As specified and agreed in the tender documentation (Appendix G)

## **SCHEDULE 3**

## Service Level Agreement

As specified and agreed in the tender documentation (Appendix C)



Appendix C.pdf



**TOSHIBA**

**TECHNOLOGY  
UNIVERSAL  
AGREEMENT**

Finance arranged through an independent finance company which complies with the Finance and Leasing Association's Code of Practice for business products supplied by Toshiba Tec U.K. Imaging Systems Ltd.

**TOGETHER  
INFORMATION**

# Universal Rental Agreement

## Not regulated by the Consumer Credit Act 1974

Customer Number: .....

Agreement No: .....

### Owner ("we")

**THE OWNER MAY BE A FINANCE COMPANY WHICH IS ENTIRELY SEPARATE FROM THE SUPPLIER. THE OWNER'S DETAILS WILL BE INSERTED BELOW AND NOTIFIED TO YOU WHEN THIS AGREEMENT IS ACCEPTED. YOU AGREE TO BE BOUND BY THE TERMS AND CONDITIONS HERE AND OVER THE PAGE UPON ACCEPTANCE BY THE OWNER.**

Owner's Name: .....

Address: .....

Post code: .....

### Hirer ("you")

Hirer's Full Business Name: Raven Housing Trust Limited

Trading as (if required): Raven House, 29 Linkfield Lane, Redhill, Surrey

Business Address: .....

Post code: RH1 1SS

Customer Business E-mail: julia.mixer@ravenht.org.uk Customer Purchase Order No: .....

Business Telephone: 03001233399 Company Registration Number (if applicable): 

I	P	3	0	0	7	0	R		
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**Non Corporate Hirers only (Personal details of sole proprietor or two partners)**

Title: ..... First Name: ..... Surname: ..... Private Address: ..... ..... Post code: ..... Home Telephone: ..... Date of Birth: .....	Title: ..... First Name: ..... Surname: ..... Private Address: ..... ..... Post code: ..... Home Telephone: ..... Date of Birth: .....
---	---

**Supplier Details**

Toshiba Tec U.K. Imaging Systems Ltd Sales Person: David Seymour

Suite H1, Chadwick House, Birchwood Park, Warrington WA3 6AE

### Products (to be installed)

Qty	Manufacturer	New (Y/N)	Model Number	Description	Maintenance Included	
					Yes	No
1	Toshiba	Y	e-STUDIO5516AC	Booklet Staple Finisher, card reader, sharepoint and one drive connectors.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
2	Toshiba	Y	e-STUDIO3515AC	Additional card reader, sharepoint and one drive connectors.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
19	Toshiba	Y	e-STUDIO338CS	Internal Staple Finisher, 2 Trays (Total of 4) and card reader.	<input type="checkbox"/>	<input checked="" type="checkbox"/>
22	PaperCut	Y	Embedded License	Embedded License for Toshiba MFD	<input type="checkbox"/>	<input checked="" type="checkbox"/>
1	Kodak	Y	1681006	KODAK i4250 Scanner. A3 110ppm ADF500 - USB; 1681006	<input checked="" type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>
					<input type="checkbox"/>	<input type="checkbox"/>

### Products (to be retained)

Qty	Manufacturer	Model Number	Description	Maintenance Included	
				Yes	No
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>
				<input type="checkbox"/>	<input type="checkbox"/>

*JM* April 22, 2021 | 6:22 EDT  
 INITIALS: ..... DATE: .....

**Terms**

Minimum Period (in months)		Payment Frequency			Minimum No of Payments during Minimum Period	
THIRTY-SIX <small>number in words</small>		MONTHLY / QUARTERLY / ANNUALLY <input type="checkbox"/> <input checked="" type="checkbox"/> <input type="checkbox"/>			TWELVE <small>number in words</small>	
First Rental A	First Maintenance Charge	VAT		First Payment		
£ 4,475.65 <small>Excl. VAT</small>	+ £ 0 <small>Excl. VAT</small>	+ £ 895.13		= £ 5,370.78 <small>Incl. VAT</small>		
Followed by:						
Number of Payments B		Rentals C		Payments		
ELEVEN <small>in words</small>		of £ 4,475.65 <small>Excl. VAT</small>		+ £ 0 <small>Excl. VAT</small> + £ 895.13 = £ 5,370.78 <small>Incl. VAT</small>		

**Early Termination.** You may put an end to this Agreement at any time by giving us three months' written notice that you wish to do so, and by paying us a sum calculated in accordance with the provision in this Agreement headed "Termination Payment", together with an administration fee of £100 plus VAT. We will advise you of the sum which we require and on receipt of this sum by us this Agreement will be cancelled. You must return the Products in accordance with the terms of this Agreement.

**Administration Charge.** A Documentation Fee of £85 plus VAT is payable on our acceptance of this Agreement and will be collected with the first Payment.

**The first Payment** is due in advance on the first day of the first Payment Period which shall begin on the first day of the month following the date of our countersignature of this Agreement. Subsequent Payments are payable on the first of each subsequent Payment Period. After completion of the Minimum Period, Payments will continue at the same rate and frequency until terminated. This Agreement commences on the date of our countersignature and will continue until three months' written notice of cancellation is given by either of us, such notice to expire no earlier than the end of the Minimum Period.

**Payments** are subject to variation if the assumptions in relation to taxation set out in this Agreement cease to apply, or if the Maintenance Charges are varied or there is a change in our standard scale of charges between the date of signature by you and the commencement of the Minimum Period.

You declare that you have read and understood the terms of this Agreement and that your attention was drawn to the exclusion clause.

**How we calculate the Rentals**

Price of the Products <small>(After any trade-in allowance)</small>	Amount required to settle existing Agreement(s)	Total Price on which Rentals are based	Rate per £1,000 of Total Price	Total cost of Rentals during Minimum Period
£ 43,448.65 <small>Excl. VAT</small>	+ £ 0 <small>Excl. VAT</small>	= £ 43,448.65 <small>Excl. VAT</small>	£ 103.01 <small>Excl. VAT</small>	£ 5,370.78 <small>Excl. VAT</small>
				<b>A+(BxC)</b>

If you decide to go ahead with the proposed Agreement, the Supplier will make sure that the amount needed to settle your existing agreement is paid to the finance company that owns the equipment.

The Owner is not liable for paying any settlement amount. If this applies to you, fill in the details below.

Name of Finance Company owning existing equipment	Agreement Reference Number
Name of Finance Company owning existing equipment	Agreement Reference Number

Additional Provisions: **SEE: "RAVEN HOUSING TRUST DEPLOYMENT LOCATIONS SCHEDULE 1"**  
**FOR DELIVERY ADDRESSES** \_\_\_\_\_ Confirmed by you: *M*

**Application.** You apply to the finance company whose name and address will be inserted in the box headed "Owner" over the page, to rent the Products for the Minimum Period and any following period as described above, on the basis of the Terms and Conditions set out above and over the page. You undertake that all of the information provided is correct, that all details were completed at the time of signature, and that the Products will be used wholly and predominantly in the course of a business. You acknowledge that whilst the Products may not be fully operational at the time of acceptance, the Rentals are due as detailed above. **You declare that you have read and understood the terms over the page and that your attention was drawn to the clause headed "Our Exclusions and Limitations".**

**Use of Personal Information**

If you are an individual (but not if you are a company) you have a legal right to know how we will use your personal information. It is important that you should read this provision and the "Use of Information" notice over the page.

We may pass your details to manufacturers, suppliers, resellers, brokers, insurers and members of the owner's group of companies who may send you information about their products. By ticking the appropriate box(es) below you give us and other members of the owner's group of companies permission to send you information about our Products and those of other members of the owner's group of companies.

Contact me about your products or any other person's products by post  by telephone  by email  by fax

Other members of the owner's group of companies may contact me about their products by post  by telephone  by email  by fax

**Signature(s)**

Your Signature(s)	Your Details	Our Acceptance
Signature(s) of Hirer(s)  <i>Julia Mixer</i>	Name(s): <b>Julia Mixer</b> <small>(PLEASE PRINT)</small>  Position(s): <b>Director of Transformation</b> <small>(PLEASE PRINT)</small>	For and on behalf of the Owner   Date of our countersignature:

## Terms

### 1. Hiring, Delivery and Use of the Products

- 1.1 We agree to hire and you agree to take on hire the Products described over the page.
- 1.2 This Agreement shall be effective from the date of our countersignature of this Agreement (as specified over the page) but we shall be under no obligation to hire the Products to you until the Acceptance Date as defined below.
- 1.3 You shall be responsible for the delivery and installation (if applicable) of the Products at the address shown beneath the heading "Hirer" over the page and shall indemnify us on demand against any transportation, delivery and/or installation costs. Upon the earlier date (being the "Acceptance Date") of either (a) the date of signature by you of a certificate of acceptance in our standard form; or (b) 3 (three) working days from the date of delivery unless you notify us in writing of any rejection of the Products, the Products shall be deemed delivered to and unconditionally accepted by you from us. Such acceptance shall be conclusive evidence that you have examined and tested them and found them to be complete and in every way satisfactory. Risk in the Products shall pass to you upon delivery.
- 1.4 You agree that you are entering into this Agreement wholly or predominantly for the purposes of a business.

### 2. Your Obligations

- During the period of this Agreement you will:-
- 2.1 punctually pay the Rentals due by direct debit because prompt payment is vital to, and is a condition of, this Agreement.
- 2.2 pay the Rentals without deduction or set off and regardless of any defect in the Products or any service or maintenance failure;
- 2.3 only use the Products in accordance with the manufacturer's instructions;
- 2.4 take proper care of the Products and notify us immediately if they are lost or damaged;
- 2.5 not remove the Products from the premises where they were originally installed without our written permission;
- 2.6 keep the Products insured against all risks of physical loss or damage for an amount equal to the full replacement value and also against all third party risks, until the Products are returned. You must arrange for our interest to be noted on your insurance policy and show us proof of insurance if we ask for it. If a claim is made we will use the proceeds to replace or repair the Products or as we may otherwise decide is appropriate in the circumstances. Any replacement products provided under your insurance policy will belong to us;
- 2.7 fully indemnify us against any loss, damage or injury (including death) to persons or property caused by the Products or their use, except for death or injury caused by our negligence;
- 2.8 not sell, mortgage, charge or part with possession of the Products, or transfer the benefit of this Agreement to anyone else;
- 2.9 pay on demand our administrative costs incurred in dealing with any failure by you to comply with the terms of this Agreement including but without limitation, charges for each letter dispatched as a result of your non-payment; a charge for each cheque returned as unpaid, or cancelled direct debit; any visit made to your last known address to find out the whereabouts of you or the Products; the issue of any default, termination or insolvency notices, legal proceedings, enforcement notices or proceedings; our costs in enforcing payment or recovery of the Products; and late payment interest charges which will be the greater of £25 or 2.5% of the amount due for each month or part month on all overdue amounts or as ordered by the court. The obligation to pay late payment interest will remain independent from and not merge with the judgment;
- 2.10 pay on demand our charges (up to any statutory maximum) for sending on request copies of invoices, VAT Schedules, rental histories, copy agreements or any other information about this Agreement with us to you or your agents, changing your personal details, business details or bank details on our records, varying the terms of this Agreement with us at your request or transferring your liability to another person.
- 2.11 permit us and our authorised representatives (at all reasonable times) to inspect and/or test the Products and/or affix nameplates and for such purposes enter into any land or premises where the Products are held.

### 3. Our Exclusions and Limitations

- 3.1 The Products and the Supplier have been selected by you relying entirely on your own judgement. If you require any warranties or guarantees in respect of the Products, their maintenance or suitability for any purpose you must obtain them directly from the Supplier.
- 3.2 You and we recognise that there is a risk that any products, in particular computer hardware and software may not perform as expected and may not be satisfactory. We both also acknowledge that salespeople acting on behalf of suppliers may make representations about products including computer hardware and software that are difficult to evaluate until delivery and commissioning. When products are financed, the risk of them not working satisfactorily or according to any representations may be assumed by you, by us, by the supplier, by an intermediary or by an insurer. You and we both appreciate that the allocation of risk is a matter of agreement and you and we have decided that it shall be borne by you, save to the extent that we have been able to obtain a right of recourse against the Supplier or any intermediary and have been able to pass that right to you under the Contracts (Rights of Third Parties) Act 1999.
- 3.3 For that reason, you and we agree that there is no term in this Agreement by which we are responsible for the performance of the Products, whether generally or in relation to any particular purpose. We do not know if any representation was made to you about the Products, but if it was, you acknowledge that it was not made on our behalf and that you have not entered into this Agreement in reliance on it. You and we also agree that we have not assumed any duty of care towards you.
- 3.4 For the avoidance of doubt, you and we agree that no terms are to be implied into this Agreement.
- 3.5 If the law requires terms to be implied into this Agreement, you and we agree that we are not liable for any breach of them, because if the risk of breach of any such terms had been allocated differently we would have charged a higher rental; because we are not in a position to evaluate and therefore insure against the risk of a breach, whilst you are in a better position to do so; and because you have chosen the Products and the Supplier.
- 3.6 In no event will our liability under this Agreement exceed the aggregate of the Rentals paid by you at the time the liability arises.
- 3.7 In no event will we be liable to you in contract, tort or otherwise including any liability for negligence:-
- (a) for any loss of revenue, business, anticipated savings or profits or any loss of use or value; or
- (b) for any indirect or consequential loss, however arising. "Anticipated savings" means any expense which you expect to avoid incurring or to incur in a lesser amount than would otherwise have been the case.

### 4. Software

- 4.1 When a part of the Products consists of one or more computer disks, tapes or other media which are recorded computer programs in machine readable form ("Software"), either:
- (a) we will obtain from the Supplier a licence in relation to the Software and grant to you a sub-licence to use it (in place of any pre-existing licence); or
- (b) the Supplier (or any third party) will grant you a licence to use the Software.
- 4.2 You undertake to comply with all the terms of the licence whether we grant it or the Supplier (or any third party) does.
- 4.3 You acknowledge that Software maintenance is not a condition of this Agreement and Rentals will continue to be payable even if the Supplier does not provide Software maintenance.

### 5. Changes to Payments

- 5.1 In calculating the Rentals we have assumed that during the period of this Agreement tax law or practice and the standard rate of corporation tax will remain the same as applicable at the date of our counter signature of this Agreement. If during the period of this Agreement there are any changes to tax law or practice or to the standard rate of corporation tax which decrease our after tax rate of return we may, at our discretion, increase the Rentals to preserve our after tax return provided we give you 7 days' prior written notice of the change in Rentals.
- 5.2 If when you entered into this Agreement you undertook to make payments by direct debit, we may at our sole discretion agree to your changing to payment against invoice. In this case we will increase the Rental payable at that time by 2% to cover the additional administration costs.

### 6. Early Termination by You

- You may put an end to this Agreement at any time by giving us three months' written notice that you wish to do so, and by paying us a sum calculated in accordance with the provision headed "Termination Payment", together with an administration fee of £100 plus VAT. We will advise you of the sum which we require and on receipt of this sum by us this Agreement will be cancelled. You must return the Products as provided below.

### 7. Default

- We can bring the hiring under this Agreement to an end at any time during the period of this Agreement if any of the following happens:-
- 7.1 you fail to pay any Rental within seven (7) days of the date when it is due and then fail to remedy the breach within seven (7) days of written notice from us requiring you to do so; or
- 7.2 you fail to keep to any of your other obligations under this Agreement and do not correct that failure within seven (7) days of written notice from us requiring you to do so; or
- 7.3 if this Agreement is not regulated by the Consumer Credit Act and you are in material breach of any other agreement with us; or
- 7.4 you or any guarantor of this Agreement, being an individual, are unable to pay your or their debts as they fall due, die, become bankrupt or begin negotiations with your or their creditors; or
- 7.5 you or any guarantor of this Agreement, being a company, are unable to pay your or its debts (as defined in the Insolvency Act 1986), go into liquidation or administration or have a receiver or administrative receiver appointed over all or any of your or its assets; or
- 7.6 you allow the Products to be used for any illegal purpose or do or allow anything to be done which in our opinion jeopardises the value of our title to the Products; or
- 7.7 you transfer or dispose of a material part of your assets or you cease or threaten to cease all or a substantial part of your business or you make or allow to be made a material adverse change to your business; or
- 7.8 there is a transfer or disposal of any shares in your company which results in a change of ownership (being 51% or more of all such shares). Any of the above will be considered as a "Repudiation". Repudiation is when you indicate that you no longer intend to keep to this Agreement and we may give you notice that your right to possession of the Products is terminated and make arrangements for their recovery.

### 8. Termination Payment

- 8.1 If we give you notice of termination under the provision headed "Default" or you give us notice of early termination in accordance with the provision headed "Early Termination by You", you will immediately pay us an amount equal to the following:
- (a) all arrears of Rentals, interest and other sums outstanding at the date of termination; plus
- (b) all Rentals you would have been obliged to pay had the hiring continued for the remainder of the Minimum Period, each Rental discounted at the rate of 3% per annum to the date each Rental would have fallen due to reflect early payment; less
- (c) if we give you notice of termination (but not if you exercise your rights to terminate early), the net proceeds of any sale of the Products (if any) which we are able to arrange after deduction of our expenses.
- 8.2 The Supplier may make a separate claim for compensation in respect of the Maintenance Charges (if applicable) which would have been payable after the date of termination in accordance with the terms he has agreed with you.

### 9. Return of Products

- 9.1 When this Agreement expires, or is terminated, you must return the Products within fourteen days, and in Average Saleable Condition to an address nominated by us within the United Kingdom. If you do not you must continue to pay Rentals on a pro rata basis until the Products are received and accepted by us.
- 9.2 "Average Saleable Condition" means that all of the Products are immediately available for use by a third party, user or lessee, other than yourself, without the need for repair or refurbishment. All Products must be free of markings. You will pay us for any missing or defective parts or accessories. If all or part of the Products consist of computer equipment you must remove all personal data, sensitive data and passwords.
- 9.3 The Products must be properly packed for shipment in accordance with the manufacturer's recommendations and specifications, freight pre-paid and insured. If you fail to do so you will be liable for our costs incurred in recovering the Products and/or restoring them to Average Saleable Condition.
- 9.4 In the event that we are prevented from recovering the Products, or that they are no longer in your possession, you will be liable to pay us on demand a sum equal to the estimated average fair market value of similar products of like age.
- 9.5 Where the Products consist of Software, you are under no obligation to return the medium on which they are stored, or training manuals to us, as they are given to you, not hired. This does not affect any arrangement you may have reached with the licensor of the Software.
- 9.6 If any part of the Products consist of Software you must stop using the Software immediately and allow us access to ensure the Software is no longer in use.

### 10. Maintenance

- 10.1 If you have indicated over the page by the entry of a monetary amount in the "Maintenance Charges" section that you wish us to collect Maintenance Charges under this Agreement together with the Rentals then the following will apply:-
- (a) we will act as agent for the Supplier to collect these charges which will have been agreed between the Supplier and you.
- (b) If you fail to pay any of the Rentals to us we will not pay the Maintenance Charges due to the Supplier who, as a result, may be entitled to withdraw maintenance services. This will not affect your obligations to us under this Agreement.
- (c) If the Supplier is no longer able to provide maintenance service as agreed between you and the Supplier, you may give us not less than 30 days' notice in writing that you wish to end the arrangement for the inclusion of Maintenance Charges. We will reduce the total we collect by the amount of the Maintenance Charges then included from the next date upon which payment is due following expiry of the notice. Ending the inclusion of Maintenance Charges may not end your rights and duties relating to maintenance with the Supplier.
- 10.2 The Supplier is responsible for providing maintenance service in accordance with the terms he has agreed with you. We accept no responsibility for carrying out maintenance service.
- 10.3 If Maintenance Charges are payable under this Agreement and the terms you have agreed with the Supplier allows for these Maintenance Charges to be increased we will increase them by the amount of any increase in the Maintenance Charges notified to us by the Supplier from time to time.



April 22, 2021 | 6:22 EDT

**11. Notices**

- 11.1 Notices from you to us should be sent to the address over the page. Notices from us to you will be sent to your postal or email address over the page or to any other address which you have notified to us in writing.
- 11.2 You agree that any notice or other document to be delivered by us to you under or in connection with this Agreement may be transmitted in PDF (Portable Document Format) or similar electronic format to your email address indicated over the page. If we do so, such notice or document will be deemed delivered on the working day immediately following the date of transmission and we will store a copy of it in non-amendable format so that it can be reproduced for future reference without change.

**12. VAT**

All Rentals and other amounts payable under this Agreement are subject to VAT at the rate applicable when they are due for payment. We will supply periodic VAT invoices.

**13. Entire Agreement**

This Agreement incorporates all of the terms agreed between you and us. It cannot be varied except by a document signed by you and us on or after the date when it commences. We exclude all representations (other than fraudulent misrepresentations) made before entry into this Agreement.

**14. Capacity**

- 14.1 We confirm that we enter into this Agreement as either:

- (a) owner of the Products; or  
(b) agent of the third party who has acquired title in the Products.

- 14.2 We may assign the benefit of this Agreement to another party and may cause title in the Products to vest in another party. In any such event, you shall owe to the principal or assignee all obligations to be performed by you under this Agreement as if the principal/ assignee were named in this Agreement in our place. Regardless of the assignment or agency, we shall perform our obligations directly to you and will remain responsible for the management of this Agreement. By signing this Agreement you consent to such assignment or agency. You acknowledge that you have no right to acquire title in the Products at any time.

**15. Agency**

Neither the Supplier nor any other person not directly employed by us has any authority to act as our agent or to make commitments in relation to this Agreement.

**16. Joint and Several Liabilities**

If more than one person is named as customer the liability of each shall be joint and several.

**17. Set Off**

If any monies are payable to you under this Agreement by us, we may withhold from those monies an amount equal to the total monies you owe us under this or any other account.

**18. Contracts (Rights of Third Parties)**

A person who is not a party to this Agreement (other than our assignee or principal) shall have no right to enforce any of its terms under the Contracts (Rights of Third Parties) Act 1999.

**19. Our Rights**

Our rights under this Agreement will not be affected if we do not enforce, or we delay enforcing, any of these terms.

**20. Governing Law**

This Agreement is governed by English law. Any dispute arising from it shall be subject to the exclusive jurisdiction of the English Courts.

**21. Data Protection**

- 21.1 Personal data supplied to the Company by the Customer for the purposes of this contract will be processed for those purposes in accordance with the Data Protection Act 2018 and (where applicable) the General Data Protection Regulation. All such processing will take place in accordance with the provisions of the Privacy Policy published on our website from time to time.

- 21.2 The use of Personal Data Statement ("Statement") describes how we and the funder who may provide you with finance collects and processes personal information about you; how this information is used and protected, and your rights in relation to this information and by signing this Agreement you consent to these terms. Further details of how we use and protect your personal data are available within the statement and general privacy policy that are published on our website [www.toshibatec.co.uk](http://www.toshibatec.co.uk).

## Use of Personal Information

### Use of Information by credit reference agencies

In considering your application the Owner will search your record at credit reference agencies who will give us credit information and information from the electoral register. The Owner will use this information to verify your credit history and make a decision about your application. They will add to your records details of this search and your application and this will be seen by other credit organisations that make searches. Information held about you by the credit reference agencies may already be linked to records relating to one or more people that you are, or have been associated with financially. Your application will be assessed with reference to any records of these "financial associates". If you tell the Owner about any authorised signatory, nominated user, joint applicant or guarantor, or if you have told the Owner about some other financial association with another person, you must be sure that you are entitled to reveal that information and are entitled to authorise the Owner to use it in the ways described in this notice, in particular, to search, link or record information at credit reference agencies about you and anyone you have referred to. An "association" between joint applicants and between you and anyone you tell us is your financial partner will be created at credit reference agencies. This will link your financial records, each of which will be taken into account in all future applications by either or both of you. This will continue until one of you successfully files a disassociation at credit reference agencies.

### Your Rights

You can write to the Data Protection Officer of the Owner if you want to have details of the credit reference agencies and fraud prevention agencies the Owner gets information from and passes information to. You have a legal right to these details. You have a right to receive a copy of the information the Owner holds about you if you apply in writing. You will need to pay a fee. You will be able to request that this information is corrected, supplemented, blocked or deleted if it is factually incorrect, incomplete or irrelevant or if it is being used in any way which infringes applicable law.

### Fraud and Money laundering Prevention

It is important that you give the Owner accurate information. The Owner will check your details with fraud prevention agencies and if you give the Owner false or inaccurate information and the Owner suspects fraud, the Owner will record this and report it to the National Criminal Intelligence Service if the Owner suspects money laundering. Credit reference agencies may share with other organisations credit searches and other information about you and those you are associated financially with, that is provided to the Owner or directly to them (or both). Those other organisations may use the information to help make decisions about credit for you and members of your household, trace debtors, recover debt, confirm your identity and prevent, detect or prosecute money laundering, fraud or other crimes. If you borrow money and do not repay it in full on time, the Owner will tell the credit reference agencies, who will record the outstanding debt. The Owner and the credit reference agencies may also use your record for statistical analysis about credit and insurance fraud. The fraud prevention agencies may use your record for statistical analysis about fraud. Fraud prevention agency records will also be shared with other organisations to help make decisions on motor, household, credit, life and other insurance proposals and insurance claims, for you and members of your household.

### The Owner's Use of Information

In order to complete the application process, you are required to provide certain contact information. The Owner shall be considered a data controller of such information which is personal data. The Owner may transfer information to any country. If no satisfactory data protection laws exist in the country to which the Owner is transferring your personal data, the Owner will put in place equivalent contractual safeguards to those contained in the Data Protection Act. In addition to the disclosures for marketing purposes the Owner may disclose your information to manufacturers, suppliers, resellers, brokers, banks, assignees, funders, advisers, agents, sub-contractors, guarantors, insurers, associated companies and other members of the Owner's group of companies, each of whom may also use the information in the ways described in this notice.

The Owner may use your information to process the agreement, for making credit decisions, crime prevention, tracing defaulters and property, administration of accounts, compliance with applicable law and regulations, statistical analysis, market research and internal reporting. The Owner may use credit scoring or an automated credit scoring system when assessing your application. Any sensitive information obtained will only be processed to provide the service requested.

**Monitoring.** The Owner or its agents may monitor or record telephone calls to ensure instructions are carried out correctly and to help improve the quality of the service.

# Checklist for Business Finance Customers

We recommend that customers taking out business finance agreements follow these steps:

1. Read your business finance agreement carefully before signing it. Never sign a business finance agreement which is not fully complete. Retain copies of all documentation.
2. Ensure that the final contract:
  - a. corresponds with any verbal or written quotation on the rental amount and period of hire;
  - b. accurately reflects what you are agreeing to pay for, including any maintenance or services included in the repayments;
  - c. accurately describes the equipment you are expecting to receive (e.g. whether it is new or used) and that its working life is appropriate to the length of the finance agreement.
3. Make it clear who has the authority within your own organisation to sign the agreement.
4. Make sure you understand and agree with all terms and conditions of the business finance agreement and, if you are unsure, ask for these to be explained or seek advice.
5. Make sure you understand all the costs involved and whether these will change during the course of the business finance agreement.
6. Check that the supplier of the equipment is reputable.
7. Understand whether there are any notice period or settlement terms required to terminate the agreement.
8. If there is a maintenance or service contract which is separate to the finance agreement, check that the length, start date, notice period and settlement terms of the two agreements is the same, and if not, that you are happy with this.
9. If the name of the leasing company contracting with you is not shown on the agreement ensure that you are informed at the earliest possible time.
10. Check whether the funder is a member of the FLA, as all asset finance members adhere to the FLA Business Finance Code.
11. If any amendments are made to the business finance agreement or a further agreement is required to replace an existing agreement, do not sign it until you have made the same checks as you did for the original agreement.
12. If a new business finance agreement includes an element of refinancing from a previous agreement with a different provider, check that the settlement figure provided by the former provider matches the refinancing figure used by the new provider.

## The Direct Debit Guarantee



- This Guarantee is offered by all Banks and Building Societies that take part in the Direct Debit Scheme. The efficiency and security of the Scheme is monitored and protected by your own bank or Building Society.
- If the amounts to be paid or the payment dates change, the Originator will notify you ten working days in advance of your account being debited or as otherwise agreed.
- If an error is made by the Originator or your Bank or Building Society, you are guaranteed a full and immediate refund from your branch of the amount paid.
- You can cancel a Direct Debit at any time by writing to your Bank or Building Society. Please also send a copy of your letter to us.

### Instruction to your Bank or Building Society to pay by Direct Debit

Please complete form and send it to the Originator:

#### 1. Name and full postal address of your Bank or Building Society Branch

To: The Manager **Barclays Bank**  
**Barclays** Bank/building society  
 Address **Leicester**  
**UK**  
 Postcode **LE87 2BB**

#### 2. Name(s) of account holder(s)

**RAVEN HSG CURNT**

#### 3. Branch sort code (from top right corner of the cheque)

**20-00-00**

#### 4. Bank/building society account number

**23047067**

#### Originator's Identification Number

#### 5. Reference (Originator's reference number)

#### 6. Instruction to your Bank or Building Society:

Please pay the Originator Direct Debits from the account detailed in this instruction subject to the safeguards assured by The Direct Debit Guarantee. I understand that this instruction may remain with the Originator and, if so, details will be passed electronically to my Bank/Building Society.

Signature(s)

*Mark Bates*

Date(s)

April 26, 2021 | 5:19 BST

**TOSHIBA**

**Toshiba Tec U.K. Imaging Systems Ltd**

Suite H1, Chadwick House  
Birchwood Park  
Warrington WA3 6AE

**Telephone**

01925 284 450

**Fax**

01925 284 481

**Website**

[www.toshibatec.co.uk](http://www.toshibatec.co.uk)

**Raven Housing Trust Deployment Locations Schedule 1**

Location	Site Address	Post Code	Model	No. of Models
First Floor	Raven House, 29 Linkfield Lane, Redhill, Surrey	RH1 1SS	KODAKKODAK i4250 Scanner	1
First Floor	Raven House, 29 Linkfield Lane, Redhill, Surrey	RH1 1SS	e-STUDIO3515AC	1
First Floor	Raven House, 29 Linkfield Lane, Redhill, Surrey	RH1 1SS	e-STUDIO5516AC	1
Reception Ground Floor	Raven House, 29 Linkfield Lane, Redhill, Surrey	RH1 1SS	e-STUDIO3515AC	1
Atherfield	Atherfield Road, Reigate	RH2 7PT	e-STUDIO338CS	1
Chilmead	North Street, Redhill	RH1 1EF	e-STUDIO338CS	1
Cliffe House	10 Goffs Park Road, Crawley	RH11 8AY	e-STUDIO338CS	1
Coniston Court	55 Massetts Road, Horley, Surrey	RH6 7DT	e-STUDIO338CS	1
Court Lodge Road Estate Office	Broad Walk, Tattenham Corner, Surrey	KT18 5TT	e-STUDIO338CS	1
Delta House	Delta Drive, Cheyne Walk, Horley	RH6 7LD	e-STUDIO338CS	1
Douglas House	The Drive, Horley	RH6 7GU	e-STUDIO338CS	1
Gardenfields	Duncan Road, Burgh Heath, Tadworth	KT20 6DR	e-STUDIO338CS	1
Holland Road	Hurst Green, Oxted	RH8 9AU	e-STUDIO338CS	1
Horsecroft Meadows	Lyme Regis Road, Banstead	SM7 2EY	e-STUDIO338CS	1
The Knowle	Preston Lane, Epsom, Tadworth	KT20 5JU	e-STUDIO338CS	1
Nutley Court	Nutley Lane, Reigate, Surrey	RH2 9ES	e-STUDIO338CS	1
Portland House	Portland Drive, Merstham, Redhill, Surrey	RH1 3HX	e-STUDIO338CS	1
Rowan Mead	Henbit Close, Tadworth, Surrey	KT20 5LN	e-STUDIO338CS	1
Silvermere	Woodlands Road, Redhill	RH1 6EZ	e-STUDIO338CS	1
Spencers Road	70 Spencers Road, Crawley	RH11 7DA	e-STUDIO338CS	1
Southern Hub	The Old Barn, Heasewood Farm, Isaacs Lane, Haywards Heath	RH16 4RZ	e-STUDIO338CS	1
Westmount	Flat 1-19, 57 Linkfield Lane, Redhill	RH1 1SY	e-STUDIO338CS	1
Wickham House	68 Reigate Road, Reigate	RH2 0RQ	e-STUDIO338CS	1

Signed by.....*Julia Mixer*.....on behalf of **Raven Housing Trust Limited**

April 22, 2021 | 6:22 EDT

Date.....

**Certificate Of Completion**

Envelope Id: 3F0EAEAD705A429AB0AE45C4450678DB	Status: Completed
Subject: PfH Print Framework Lot 2A Raven - Toshiba	
Source Envelope:	
Document Pages: 14	Signatures: 1
Supplemental Document Pages: 58	Initials: 0
Certificate Pages: 5	Envelope Originator:
AutoNav: Enabled	Caroline Lamont
Enveloped Stamping: Enabled	Raven House, 29 Linkfield Lane
Time Zone: (UTC) Dublin, Edinburgh, Lisbon, London	Redhill, Surrey RH1 1SS
	Caroline.Lamont@ravenht.org.uk
	IP Address: 81.132.118.20

**Record Tracking**

Status: Original	Holder: Caroline Lamont	Location: DocuSign
05 October 2021   09:31	Caroline.Lamont@ravenht.org.uk	

**Signer Events**

Signature	Timestamp
Julia Mixer julia.mixer@ravenht.org.uk Director of Transformation Security Level: Email, Account Authentication (None)	Sent: 05 October 2021   09:48 Viewed: 05 October 2021   18:59 Signed: 06 October 2021   09:08
Signature Adoption: Pre-selected Style Using IP Address: 5.66.29.158	

**Electronic Record and Signature Disclosure:**  
 Accepted: 05 October 2021 | 18:59  
 ID: 273379d1-4187-43c7-9cdf-515c7814013c

**In Person Signer Events****Editor Delivery Events****Agent Delivery Events****Intermediary Delivery Events****Certified Delivery Events****Carbon Copy Events**

Rosemary Clarkson  
 rclarkson@pfh.co.uk  
 Security Level: Email, Account Authentication (None)

**Electronic Record and Signature Disclosure:**  
 Not Offered via DocuSign

**Witness Events****Notary Events****Envelope Summary Events**

Signature	Timestamp
<b>COPIED</b>	Sent: 06 October 2021   09:08

Status	Timestamps
Envelope Sent	05 October 2021   09:48
Certified Delivered	05 October 2021   18:59
Signing Complete	06 October 2021   09:08
Completed	06 October 2021   09:08

**Payment Events**

**Status**

**Timestamps**

**Electronic Record and Signature Disclosure**

## **ELECTRONIC RECORD AND SIGNATURE DISCLOSURE**

From time to time, Raven Housing Trust (we, us or Company) may be required by law to provide to you certain written notices or disclosures. Described below are the terms and conditions for providing to you such notices and disclosures electronically through the DocuSign system. Please read the information below carefully and thoroughly, and if you can access this information electronically to your satisfaction and agree to this Electronic Record and Signature Disclosure (ERSD), please confirm your agreement by selecting the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

### **Getting paper copies**

At any time, you may request from us a paper copy of any record provided or made available electronically to you by us. You will have the ability to download and print documents we send to you through the DocuSign system during and immediately after the signing session and, if you elect to create a DocuSign account, you may access the documents for a limited period of time (usually 30 days) after such documents are first sent to you. After such time, if you wish for us to send you paper copies of any such documents from our office to you, you will be charged a \$0.00 per-page fee. You may request delivery of such paper copies from us by following the procedure described below.

### **Withdrawing your consent**

If you decide to receive notices and disclosures from us electronically, you may at any time change your mind and tell us that thereafter you want to receive required notices and disclosures only in paper format. How you must inform us of your decision to receive future notices and disclosure in paper format and withdraw your consent to receive notices and disclosures electronically is described below.

### **Consequences of changing your mind**

If you elect to receive required notices and disclosures only in paper format, it will slow the speed at which we can complete certain steps in transactions with you and delivering services to you because we will need first to send the required notices or disclosures to you in paper format, and then wait until we receive back from you your acknowledgment of your receipt of such paper notices or disclosures. Further, you will no longer be able to use the DocuSign system to receive required notices and consents electronically from us or to sign electronically documents from us.

### **All notices and disclosures will be sent to you electronically**

Unless you tell us otherwise in accordance with the procedures described herein, we will provide electronically to you through the DocuSign system all required notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you during the course of our relationship with you. To reduce the chance of you inadvertently not receiving any notice or disclosure, we prefer to provide all of the required notices and disclosures to you by the same method and to the same address that you have given us. Thus, you can receive all the disclosures and notices electronically or in paper format through the paper mail delivery system. If you do not agree with this process, please let us know as described below. Please also see the paragraph immediately above that describes the consequences of your electing not to receive delivery of the notices and disclosures electronically from us.

### **How to contact Raven Housing Trust:**

You may contact us to let us know of your changes as to how we may contact you electronically, to request paper copies of certain information from us, and to withdraw your prior consent to receive notices and disclosures electronically as follows:

To contact us by email send messages to: [prince.ezenwa@ravenht.org.uk](mailto:prince.ezenwa@ravenht.org.uk)

### **To advise Raven Housing Trust of your new email address**

To let us know of a change in your email address where we should send notices and disclosures electronically to you, you must send an email message to us at [prince.ezenwa@ravenht.org.uk](mailto:prince.ezenwa@ravenht.org.uk) and in the body of such request you must state: your previous email address, your new email address. We do not require any other information from you to change your email address.

If you created a DocuSign account, you may update it with your new email address through your account preferences.

### **To request paper copies from Raven Housing Trust**

To request delivery from us of paper copies of the notices and disclosures previously provided by us to you electronically, you must send us an email to [prince.ezenwa@ravenht.org.uk](mailto:prince.ezenwa@ravenht.org.uk) and in the body of such request you must state your email address, full name, mailing address, and telephone number. We will bill you for any fees at that time, if any.

### **To withdraw your consent with Raven Housing Trust**

To inform us that you no longer wish to receive future notices and disclosures in electronic format you may:

- i. decline to sign a document from within your signing session, and on the subsequent page, select the check-box indicating you wish to withdraw your consent, or you may;
- ii. send us an email to prince.ezenwa@ravenht.org.uk and in the body of such request you must state your email, full name, mailing address, and telephone number. We do not need any other information from you to withdraw consent.. The consequences of your withdrawing consent for online documents will be that transactions may take a longer time to process..

### **Required hardware and software**

The minimum system requirements for using the DocuSign system may change over time. The current system requirements are found here: <https://support.docusign.com/guides/signer-guide-signing-system-requirements>.

### **Acknowledging your access and consent to receive and sign documents electronically**

To confirm to us that you can access this information electronically, which will be similar to other electronic notices and disclosures that we will provide to you, please confirm that you have read this ERSD, and (i) that you are able to print on paper or electronically save this ERSD for your future reference and access; or (ii) that you are able to email this ERSD to an email address where you will be able to print on paper or save it for your future reference and access. Further, if you consent to receiving notices and disclosures exclusively in electronic format as described herein, then select the check-box next to 'I agree to use electronic records and signatures' before clicking 'CONTINUE' within the DocuSign system.

By selecting the check-box next to 'I agree to use electronic records and signatures', you confirm that:

- You can access and read this Electronic Record and Signature Disclosure; and
- You can print on paper this Electronic Record and Signature Disclosure, or save or send this Electronic Record and Disclosure to a location where you can print it, for future reference and access; and
- Until or unless you notify Raven Housing Trust as described above, you consent to receive exclusively through electronic means all notices, disclosures, authorizations, acknowledgements, and other documents that are required to be provided or made available to you by Raven Housing Trust during the course of your relationship with Raven Housing Trust.