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| Guildford Borough Council |
| Consultancy TERMS & CONDITIONS |
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1. **Interpretation**
   1. The definitions and rules of interpretation in this clause apply in these Terms & Conditions (unless the context requires otherwise).

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| "Business of the Client" | The functions and responsibilities of GBC as a Borough council. |
| "Capacity" | In capacity as agent, consultant, director, employee, owner, partner, shareholder or in any other capacity. |
| "Client Property" | All documents, books, manuals, materials, records, correspondence, papers and information (on whatever media and wherever located) relating to the Business or affairs of GBC or any Interested Party or their customers and business contacts, and any equipment, keys, hardware or software provided for the Consultant or any Individual’s use by GBC during the Engagement, and any data or documents (including copies) produced, maintained or stored by the Consultant or any Individual on the computer systems or other electronic equipment of GBC, the Consultant or any Individual during the Engagement. |
| "Commencement Date" | The date specified in the Contract Award Letter. |
| "Confidential Information" | Information in whatever form (including, without limitation, in written, oral, visual or electronic form or on any magnetic or optical disk or memory and wherever located) relating to the business, customers, products, affairs and finances of GBC or any Interested Party for the time being confidential to GBC or any Interested Party and trade secrets including, without limitation, technical data and know-how relating to the Business of GBC or any Interested Party or any of their suppliers, customers, agents, distributors, shareholders, management or business contacts and including (but not limited to) information that the Consultant or any Individual creates, develops, receives or obtains in connection with this Engagement, whether or not such information (if in anything other than oral form) is marked confidential. |
| “Core Element”  “Council Equipment”  “Council Materials”  “Council Network” | Each core element or phase of the Services, the completion of which, on the terms of this Agreement, triggers a fee payment.  Any equipment which the Consultant accesses from GBC in the course of providing the Services.  Any documents, data, databases, information or coding howsoever stored, audio and/or graphic material belonging to GBC or which the Consultant accesses from GBC either in writing, orally, electronically or by any other means in the course of providing the Services.  GBC’s network of information technology equipment, software, computers including (without limitation) the Public Sector Network (“**PSN**”). |
| “Deliverable” | The deliverables to be delivered by the Consultant to GBC as part of the Services in accordance with the Tender Documentation. |
| "Engagement" | The engagement of the Consultant by GBC on the terms of this Agreement. |
| “Final Deliverable” | The final presentation or such other final deliverable as may be agreed in writing by the parties. |
| "Individual(s)" | [*insert names as appropriate*] |
| “Interested Party”, “Interested Parties” | Such parties as identified in the Quotation for Services to which the Services, or part thereof, may relate. |
| "Insurance Policies" | Employer’s liability insurance cover, professional indemnity insurance cover and public liability insurance cover. |
| "Intellectual Property Rights" | Patents, rights to Inventions, copyright and related rights, trade marks, trade names and domain names, rights in get-up, rights in goodwill or to sue for passing off, unfair competition rights, rights in designs, rights in computer software, database rights, topography rights, rights in confidential information (including know-how and trade secrets) and any other intellectual property rights, in each case whether registered or unregistered and including all applications (or rights to apply) for, and renewals or extensions of, such rights and all similar or equivalent rights or forms of protection which may now or in the future subsist in any part of the world. |
| "Invention" | Any invention, idea, discovery, development, improvement or innovation made by the Consultant or by any Individual in connection with the provision of the Services, whether or not patentable or capable of registration, and whether or not recorded in any medium. |
| **“**Normal Business Hours” | Monday to Friday – 9.00am to 5.00pm excluding Bank Holidays in England. |
| "Pre-Contractual Statement" | Any undertaking, promise, assurance, statement, representation, warranty or understanding (whether in writing or not) of any person (whether party to this agreement or not) relating to the Engagement other than as expressly set out in this Agreement or any documents referred to in it. |
| “Quotation Documentation” | The Consultant’s Tender Submission for Employer’s Agent Services, comprising  a) The Form of Tender(s)  b) Supplier’s response to Annex A - Section 1: Service Delivery Proposal; Section 2: Implementation Plan and Timescales and Section 3: Project Team  c) Supplier’s response to Annex B – Pricing Schedule  together with the Scope of the Services to be provided by the Consultant to GBC on the terms of this Agreement. |
| “Quotation for Services” | Means the Quotation for Employer’s Agent Services referred to in the definition of the Quotation Documentation. |
| “Response” | The Consultant’s quotation and response to the Quotation for Services. |
| "Services" | The Scope of Services and the services described in the Quotation Documentation. |
| "Substitute" | A substitute for the Individual appointed under the terms of clause 3.3. |
| "Termination Date" | The date of termination of this Agreement, howsoever arising. |
| "Works" | All records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programs, inventions, ideas, discoveries, developments, improvements or innovations and all materials embodying them in whatever form, including but not limited to hard copy and electronic form, prepared by the Consultant or any Individual in connection with the provision of the Services. |

* 1. The headings in these terms and conditions are inserted for convenience only and shall not affect its construction.
  2. A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
  3. Unless the context otherwise requires, a reference to one gender shall include a reference to the other genders.
  4. Unless the context otherwise requires, words in the singular include the plural and in the plural include the singular.

1. **Term Of Engagement**
   1. GBC shall engage the Consultant who shall make available to GBC the Individuals to provide the Services on the terms of this Agreement.
   2. The Engagement shall commence on the Commencement Date and shall continue unless and until terminated:
      1. as provided by the terms of this Agreement; or
      2. on completion of the Final Deliverable.
   3. The parties acknowledge and agree that any terms that the Consultant may seek to impose or incorporate, or which are implied by trade, custom, practice or course of dealing are excluded from the provision of the Services and that the terms of this Agreement shall prevail.
2. **Duties And Obligations**
   1. During the Engagement the Consultant warrants that it shall, and (where appropriate) it shall procure that each Individual shall:
      1. provide the Services and deliver the Deliverables in accordance with the Quotation Documentation using all due care, skill and ability;
      2. be suitably qualified, experienced and trained in providing the Services and delivering the Deliverables;
      3. meet the Client’s disclosure and barring requirements including obtaining such certificate relating to each Individual issued by the Disclosure and Barring Service as the Client may require;
      4. unless the Individual is prevented by ill health or accident, devote at least the hours allocated to the Individual in the Response to the carrying out of the Services together with such additional time if any as may be necessary for their proper performance;
      5. attend all progress meetings that, in the opinion of GBC (acting reasonably) are relevant to the role held by each Individual; and
      6. promptly give to GBC all such information and reports as it may reasonably require in connection with matters relating to the provision of the Services.
   2. If any Individual is unable to provide the Services due to illness or injury, the Consultant shall advise GBC of that fact as soon as reasonably practicable. For the avoidance of doubt, no fee shall be payable in accordance with clause 4 in respect of any Core Element that is not provided.
   3. The Consultant may, with the prior written approval of GBC and subject to the following proviso, appoint a suitably qualified, experienced, trained and skilled Substitute to perform the Services instead of an Individual, provided that the Substitute shall be required to enter into direct undertakings with GBC, including with regard to confidentiality. If GBC accepts the Substitute, the Consultant shall continue to invoice GBC in accordance with clause 4 and shall be responsible for the remuneration of the Substitute.
   4. The Consultant shall use its reasonable endeavours to ensure that each Individual is available at all times on reasonable notice to provide such assistance or information as GBC may require.
   5. Unless it or he has been specifically authorised to do so by GBC in writing:
      1. neither the Consultant nor any Individual shall have any authority to incur any expenditure in the name of or for the account of GBC; and
      2. the Consultant shall not, and shall procure that each Individual shall not, hold itself out as having authority to bind GBC.
   6. The Consultant shall, and shall procure that each Individual shall, comply with all reasonable standards of safety and comply with GBC’s health and safety procedures from time to time in force at the premises where the Services are provided and report to GBC any unsafe working conditions or practices.
   7. The Consultant may not sub-contract the execution of the whole or any part of the Services (including any administrative, clerical or secretarial functions) without the prior written consent of GBC.
   8. If GBC consents to the appointment of a sub-contractor in accordance with Clause 3.7, the parties agree:
      1. GBC will not be liable to bear the cost of such functions; and
      2. at GBC’s request the third party shall be required to enter into direct undertakings with GBC, including with regard to confidentiality, the Data Protection Act 1998 and the Freedom of Information Act 2000;
      3. the Consultant shall be responsible for any acts, defaults, omissions, or neglect of any sub-contractor or sub-contractor’s agents, servants or staff in the execution of the Services or any part thereof or any supplier as if they were the acts, defaults, omissions or neglects of the Consultant.
   9. The Consultant shall, and shall procure that each Individual shall:
      1. comply with all applicable laws, regulations, codes and sanctions relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010;
      2. not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
      3. comply with GBC’s policies set out in Schedule 3 as updated by GBC from time to time;
      4. assist the Council in complying with all other policies and codes relevant to this Agreement including The Local Government Transparency Code 2015;
      5. have and shall maintain in place throughout the term of this Agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the requirements of clauses 3.9.1 to 3.9.4 and will enforce them where appropriate;
      6. promptly report to GBC any request or demand for any undue financial or other advantage of any kind received by the Consultant or any Individual in connection with the performance of this Agreement;
      7. immediately notify GBC if a foreign public official becomes an officer or employee of the Consultant or acquires a direct or indirect interest in the Consultant (and the Consultant warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Agreement);
      8. ensure that all persons associated with the Consultant or other persons who are performing services in connection with this Agreement comply with this clause 3.9;
      9. on request certify to GBC in writing signed by an officer of the Consultant compliance with this clause 3.9 by the Consultant and all persons associated with it, including each Individual, and all other persons for whom the Consultant is responsible under clause 3.9.8, the Consultant providing such supporting evidence of compliance as GBC may reasonably request;
      10. not offer, give or agree to give any gift or consideration whatsoever as an inducement or reward to any employee or agent of the Council; and
      11. not be a party to a cartel involving or including any commercial or other arrangement between individuals and/or corporations which is intended or organised so as to share or control marketing arrangements or prices (whether or not that arrangement is a concealed or hidden commercial venture) and in the event of the Consultant being a party to such a cartel the Council shall be entitled to terminate the Agreement with immediate effect and to recover the amount of any losses, damages, charges or costs which it may directly or indirectly sustain by reason of such termination.
   10. The Council may terminate this Agreement and recover all of its losses if the Consultant, its employees or anyone acting on the Consultant’s behalf:

(a) offers, gives or agrees to give anyone any inducement or reward in respect of this Agreement or any other Agreement (even if the Consultant does not know what has been done); or

(b) commits an offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972; or

(c) commits any fraud in connection with this or any other Council contract whether alone or in conjunction with Council members, Service Providers or employees.

* 1. Breach of clause 3.9 shall be deemed a material breach of this Agreement.
  2. For the purpose of clause 3.9, the meaning of adequate procedures and foreign public official and whether a person is associated with another person shall be determined in accordance with section 7(2) of the Bribery Act 2010 (and any guidance issued under section 9 of that Act), section 6(5) and 6(6) of that Act and section 8 of that Act respectively. For the purposes of clause 3.9, a person associated with the Consultant includes but is not limited to any Substitute for any of the Individuals.
  3. The Client may require the removal of an Individual or Substitute where there is any failing on their part in respect of the matters mentioned in this clause 3 or the Client (acting reasonably) assesses such person or persons as not suitable to provide the Services or deliver the Deliverables.

1. **Fees**
   1. GBC shall pay the Consultant the fees set out in Schedule 2, exclusive of VAT (“Fees”).
   2. In consideration of the provision of the Services, GBC shall pay each invoice submitted by the Consultant in accordance with clause 4.1, within 30 days of receipt.
   3. GBC shall consider and verify invoices within the 30 day period stipulated in clause 4.2 and invoices will be regarded as valid and undisputed where it fails to do so.
   4. GBC shall be entitled to deduct from the Fees (and any other sums) due to [the Consultant any sums that the Consultant may owe to GBC at any time.
   5. Payment in full or in part of the Fees claimed under clause 4 shall be without prejudice to any claims or rights of GBC against the Consultant or any Individual in respect of the provision of the Services.
   6. The Fees shall be deemed to be fully inclusive of the Consultant’s expenses and disbursements and no additional sums shall be reimbursed whatsoever save where and to the extent that the Parties have otherwise agreed.
   7. Should GBC terminate this Agreement in accordance with clause 12, GBC shall pay the Consultant such part of the Fees as is proportionate to the amount of Services which have been carried out by the Consultant up to the date of termination.
2. **Expenses**
   1. The Consultant shall bear its own expenses incurred in the course of the Engagement.
3. **Other Activities**
   1. Nothing in this Agreement shall prevent the Consultant or any Individual from being engaged, concerned or having any financial interest in any Capacity in any other business, trade, profession or occupation during the Engagement provided that:
      1. such activity does not cause a breach of any of the Consultant’s obligations under this Agreement;
      2. the Consultant shall not, and shall procure that each Individual shall not, engage in any such activity if it relates to a business which is similar to or in any way competitive with the Business of GBC without the prior written consent of GBC; and
      3. the Consultant shall give priority to the provision of the Services to GBC over any other business activities undertaken by it during the course of the Engagement.
4. **Confidential Information And Client Property**
   1. The Consultant acknowledges that in the course of the Engagement it and each Individual will have access to Confidential Information. The Consultant has therefore agreed to accept the restrictions in this clause 7.
   2. The Consultant shall not, and shall procure that each Individual shall not (except in the proper course of its or his duties), either during the Engagement or at any time after the Termination Date, use or disclose to any third party (and shall use its best endeavours to prevent the publication and disclosure of) any Confidential Information. This restriction does not apply to:
      1. any use or disclosure authorised by GBC or required by law; or
      2. any information which is already in, or comes into, the public domain otherwise than through the Consultant’s or any Individual’s unauthorised disclosure.
   3. At any stage during the Engagement, the Consultant will promptly on request return to GBC all and any Client Property in its or any Individual’s possession.
5. **Data Protection AND FREEDOM OF INFORMATION**
   1. The Consultant shall procure that each Individual consents to GBC holding and processing data relating to him for legal, personnel, administrative and management purposes and in particular to the processing of any “sensitive personal data” (as defined in the Data Protection Act 1998) relating to an Individual including, as appropriate:
      1. information about the Individual’s physical or mental health or condition in order to monitor sickness absence;
      2. the Individual’s racial or ethnic origin or religious or similar beliefs in order to monitor compliance with equal opportunities legislation; and
      3. information relating to any criminal proceedings in which the Individual has been involved for insurance purposes and in order to comply with legal requirements and obligations to third parties.
   2. The Consultant consents (and shall procure that each Individual consents) to GBC making such information available to the Interested Parties and those who provide products or services to GBC and the Interested Parties such as advisers, regulatory authorities, governmental or quasi governmental organisations.
   3. The Consultant consents (and shall procure that each Individual consents) to the transfer of such information to GBC’s and the Interested Parties’ business contacts outside the European Economic Area in order to further their business interests.
   4. The Consultant shall comply, and shall procure that each Individual shall comply, with GBC’s data protection policy and relevant obligations under the Data Protection Act 1998 (“DPA”) and associated codes of practice when processing personal data relating to any employee, worker, customer, client, supplier or agent of GBC.
   5. The Consultant shall (and shall ensure that all of the Individuals) comply with any notification requirements under the DPA and both parties will duly observe all their obligations under the DPA which arise in connection with the Agreement.
   6. Where the Consultant, pursuant to its obligations under this Agreement, processes personal data (as defined in the DPA) on behalf of the GBC, it shall:
      1. Process Personal Data only in accordance with instructions from GBC;
      2. Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by;
      3. Implement appropriate technological measures to protect against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
      4. Take reasonable steps to ensure the reliability of any Service Provider Personnel who have access to the Personal Data;
      5. Obtain prior written consent from GBC in order to transfer the Personal Data to any permitted sub-contractor for the provision of the Services;
      6. Ensure that any Individuals required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 8;
      7. Ensure that none of the Individuals or any other staff engaged by the Consultant publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by GBC;
      8. Notify GBC (within five (5) Working Days) if it receives:
   7. request from a Data Subject (as defined in the DPA) to have access to that person’s Personal Data; or
   8. a complaint or request relating to GBC’s obligations under the DPA.
      1. Provide GBC with full co-operation and assistance in relation to any complaint or request made, including by:
         1. Provide GBC with full details of the complaint or request;
         2. Complying with a data access request within the relevant timescales set out in the DPA and in accordance with GBC’s instructions;
         3. Provide GBC with any Personal Data it holds in relation to a Data Subject (within the timescales required by GBC); and
         4. Providing GBC with any information requested by GBC;
      2. Permit GBC or its representatives (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit the Consultant’s data processing activities (and/or those of its sub-contractors) and comply with all reasonable requests or directions by the Council to enable the Council to verify and/or procure that the Consultant is in full compliance with its obligations under this Agreement;
      3. Provide a written description of the technical and organisational methods employed by the Consultant for processing Personal Data (within the timescales required by GBC): and
      4. Not Process Personal Data outside the European Economic Area without the prior written consent of GBC and, where GBC consents to transfer, to comply with:
         1. The obligations of the Data Controller (as defined in the DPA) under the Eight Data Protection Principle set out in Schedule 1 of the data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and
         2. Any reasonable instructions notified to it by GBC.
   9. The Consultant shall not perform its obligations under this Agreement in such a way as to cause GBC to breach any of its applicable obligations under the Data Protection Act.
   10. With respect to the parties’ rights and obligations under this Agreement, the parties acknowledge that, except where otherwise agreed, GBC is the Data Controller and the Consultant is the Data Processor.
   11. The Consultant shall be liable for and shall indemnify (and keep indemnified) the Council against each and every action, proceeding, liability, cost, claim, loss, expense (including reasonable legal fees and disbursements on a solicitor client basis) and demands incurred by the Council which arise directly or in connection with the Consultant’s data processing activities under this Agreement, including without limitation those arising out of any third party demand, claim or action, or any breach of contract, negligence, fraud, wilful misconduct, breach of statutory duty or non-compliance with any part of the Data Protection Act by the Consultant or its employees, servants, agents or sub-Service Providers.
   12. The Consultant and GBC acknowledge that:

1. GBC is obliged to comply with the provisions of Section 100 of the Local Government Act 1972 and Section 1(1) of the FOIA (the “Information Acts”), meaning that any person has a right to request information relating to the provisions of this Agreement (the “Information”) from GBC;
2. GBC has a duty to communicate the Information to the individual making the request; and
3. the Consultant shall assist and co-operate with GBC in complying with its obligations under the Information Acts, but shall not disclose any Information to any individual under the provisions of the Information Acts without first obtaining the prior written consent of GBC.
   1. The following sub-clauses shall apply to GBC and the Consultant:
4. Both Parties shall take account of the code of practice on the discharge of the functions of public authorities under Part 1 of the FOIA made pursuant to section 45 of the Act.
5. Where either Party receives a request for information in writing and that information is held by the other on behalf of the party in receipt of the request the party holding the information on behalf of the other shall promptly provide the party in receipt of the request with such information as is necessary to enable it to comply or consider the request.
6. For the purposes of sub-clause 8.11.b “in writing” shall also include any request for information where the text of the request is (i) transmitted by electronic means (ii) is received in legible form, and (iii) is capable of being used for subsequent reference.
7. Unless it is clear that no exemption applies under the FOIA each Party shall notify the other within 24 hours of any requirement arising as a result of the FOIA whereby it may be compelled to disclose information provided to it by the other Party and shall consult with it as to whether such information should be disclosed.
8. Sub-clause 8.11(d) shall not apply where the Party which has been provided information by the other does not intend to disclose such information.
9. **ACCESS TO COUNCIL MATERIALS, COUNCIL EQUIPMENT AND COUNCIL NETWORK**
   1. Where the Consultant is given permission to access the Council Materials (via the Council Network or otherwise) and/or Council Equipment:-
      1. GBC may remove that access at any time, in which case the Consultant shall fully co-operate with GBC in relation to any steps which need to be taken to do this; and
      2. GBC may monitor the manner in which the Consultant:
         1. Accesses the Council Network and Council Materials; and
         2. Makes use of the Council Equipment.
      3. The Consultant agrees to:-
         1. Only use the Council Equipment, Council Network and Council Materials for the purpose of fulfilling the Consultant’s obligations under this Agreement; and
         2. Only hold and/or store Council Materials in electronic format on a device that has been approved by GBC and only for so long as it is essential for the performance of the Consultant’s obligations under this Agreement;
         3. Delete the Council Materials from any medium in which they are stored, or where requested by the Council, return to GBC, all Council Materials as soon as it is no longer essential for the Consultant to hold or store them;
         4. Notify GBC once the Consultant has carried out its obligation under clause 9.1.3.3; and
         5. Comply with any statutory requirements notified to the Consultant by GBC from time to time in relation to the Council Equipment, Council Network and Council Materials.
   2. Where the Consultant is given permission to access the Council Network, the Consultant shall:
      1. Comply with any requirements relating to virus protection notified to the Consultant by GBC from time to time;
      2. Comply with all information security policies of GBC relating to that access and use of the Council Network (which may be amended by GBC from time to time);
      3. Co-operate with GBC’s Information Computer Technology (ICT) Department in relation to all matters relating to the Consultant’s access;
      4. Only access the Council Network using equipment authorised in advance by GBC; and
      5. Only access the Council Network during Normal Business Hours unless otherwise agreed in advance by GBC.
   3. Where the Consultant is given permission to access to the PSN, it shall ensure that all its personnel (including any agency staff or sub-contractors) who shall have access to the PSN to fulfil the Consultant’s obligations under this Agreement shall have security clearance in accordance with Her Majesty’s Government’s Baseline Personnel Security Standard (BPSS).
   4. Where the Consultant is granted access to the Council Network for the purposes of providing support, its network and host devices must be trusted devices and fully patched.
   5. All Council Equipment shall remain the property of GBC at all times. Upon the termination or expiry of this Agreement, all Council Equipment must be returned by the Consultant to GBC.
10. **Intellectual Property**
    1. The Consultant warrants to GBC that it has obtained from each Individual a written and valid assignment of all existing and future Intellectual Property Rights in the Works and of all materials embodying such rights and a written irrevocable waiver of all the Individual’s statutory moral rights in the Works, to the fullest extent permissible by law, and that the Individual has agreed to hold on trust for the Consultant any such rights in which the legal title has not passed (or will not pass) to the Consultant. The Consultant agrees to provide to GBC a copy of this assignment on or before the date of this Agreement.
    2. The Consultant hereby assigns to GBC all existing and future Intellectual Property Rights in the Works and the Inventions and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this Agreement, the Consultant holds legal title in these rights and inventions on trust for GBC.
    3. The Consultant undertakes to GBC:
       1. to notify to GBC in writing full details of all Inventions promptly on their creation;
       2. to keep confidential the details of all Inventions;
       3. whenever requested to do so by GBC and in any event on the termination of the Engagement, promptly to deliver to GBC all correspondence, documents, papers and records on all media (and all copies or abstracts of them), recording or relating to any part of the Works and the process of their creation which are in its or any Individual’s possession, custody or power;
       4. not to register nor attempt to register any of the Intellectual Property Rights in the Works, nor any of the Inventions, unless requested to do so by GBC; and
       5. to do all acts necessary to confirm that absolute title in all Intellectual Property Rights in the Works and the Inventions has passed, or will pass, to GBC,

and confirms that each Individual has given written undertakings in the same terms to the Consultant.

* 1. The Consultant warrants that:
     1. it has not given and will not give permission to any third party to use any of the Works or the Inventions, nor any of the Intellectual Property Rights in the Works;
     2. it is unaware of any use by any third party of any of the Works or Intellectual Property Rights in the Works; and
     3. the use of the Works or the Intellectual Property Rights in the Works by GBC will not infringe the rights of any third party,

and confirms that each Individual has given written undertakings in the same terms to the Consultant.

* 1. The Consultant agrees to indemnify GBC and the Interested Parties and keep them indemnified at all times against all or any costs, claims, damages or expenses incurred by GBC and/or the Interested Parties, or for which GBC and/or the Interested Parties may become liable, with respect to any intellectual property infringement claim or other claim relating to the Works or Inventions supplied by the Consultant to GBC during the course of providing the Services. The Consultant shall maintain adequate liability insurance coverage and ensure that GBC’s and the Interested Parties’ interest is noted on the policy, and shall supply a copy of the policy to GBC on request. GBC may at its option satisfy such indemnity (in whole or in part) by way of deduction from any payments due to the Consultant.
  2. The Consultant acknowledges that no further remuneration or compensation other than that provided for in this Agreement is or may become due to the Consultant in respect of the performance of its obligations under this clause 10.
  3. The Consultant undertakes to execute all documents, make all applications, give all assistance and do all acts and things, at the expense of GBC and at any time either during or after the Engagement, as may, in the opinion of GBC, be necessary or desirable to vest the Intellectual Property Rights in, and register or obtain patents or registered designs in, the name of GBC and to defend GBC against claims that works embodying Intellectual Property Rights or Inventions infringe third party rights, and otherwise to protect and maintain the Intellectual Property Rights in the Works. the Consultant confirms that each Individual has given written undertakings in the same terms to the Consultant.
  4. The Consultant irrevocably appoints GBC to be its attorney in its name and on its behalf to execute documents, use the Consultant’s name and do all things which are necessary or desirable for GBC to obtain for itself or its nominee the full benefit of this clause. A certificate in writing, signed by any director or the secretary of GBC, that any instrument or act falls within the authority conferred by this Agreement shall be conclusive evidence that such is the case so far as any third party is concerned.

1. **Insurance And Liability**
   1. The Consultant shall have liability for and shall indemnify GBC and the Interested Parties for any loss, liability, costs (including reasonable legal costs), damages or expenses arising from any breach by the Consultant or any Individual or any Substitute engaged by it of the terms of this Agreement including any negligent or reckless act, omission or default in the provision of the Services and shall accordingly maintain in force during the Engagement full and comprehensive Insurance Policies.
   2. The Consultant shall ensure that the Insurance Policies are taken out with reputable insurers acceptable to GBC and that the levels of cover and other terms of insurance are acceptable to and agreed by GBC and accord with the Quotation Documentation such that the level of cover for required employer’s liability shall be ten million pounds (£10,000,000.00), Public insurances shall be five million pounds (£5,000,000.00) and professional indemnity insurance shall be two million pounds (£2,000,000.00).
   3. The Consultant shall on request supply to GBC copies of the Insurance Policies and evidence that the relevant premiums have been paid.
   4. The Consultant shall notify the insurers of GBC’s and the Interested Parties’ interest and shall cause the interest to be noted on the Insurance Policies together with a provision to the effect that, if any claim is brought or made by GBC or any Interested Party against the Consultant in respect of which the Consultant would be entitled to receive indemnity under any of the Insurance Policies, the relevant insurer will indemnify GBC and/or the Interested Parties directly against such claim and any charges, costs and expenses in respect of such claim. If the relevant insurer does not so indemnify GBC and the Interested Parties, the Consultant shall use all insurance monies received by it to indemnify GBC and the Interested Parties in respect of any claim and shall make good any deficiency from its own resources.
   5. The Consultant shall comply (and shall procure that each Individual complies) with all terms and conditions of the Insurance Policies at all times. If cover under the Insurance Policies shall lapse or not be renewed or be changed in any material way or if the Consultant is aware of any reason why the cover under the Insurance Policies may lapse or not be renewed or be changed in any material way, the Consultant shall notify GBC without delay.
2. **Termination**
   1. Notwithstanding the provisions of clauses 2.2 or 3.10, GBC may terminate the Engagement with immediate effect on written notice without any liability to make any further payment to the Consultant (other than in respect of amounts accrued before the Termination Date) and shall be entitled to recover all losses arising therefrom, if at any time:
      1. the Consultant or any Individual commits any gross misconduct affecting the Business of GBC or the business of any Interested Party;
      2. the Consultant or any Individual commits any serious or repeated breach or non-observance of any of the provisions of this Agreement or refuses or neglects to comply with any reasonable and lawful directions of GBC or an Interested Party;
      3. any Individual is convicted of any criminal offence (other than an offence under any road traffic legislation in the United Kingdom or elsewhere for which a fine or non-custodial penalty is imposed); or
      4. the Consultant or any Individual is, in the reasonable opinion of GBC, negligent or incompetent in the performance of the Services;
      5. the Consultant makes a resolution for its winding up, makes an arrangement or composition with its creditors or makes an application to a court of competent jurisdiction for protection from its creditors or an administration or winding-up order is made or an administrator or receiver is appointed in relation to the Consultant;
      6. any Individual is incapacitated (including by reason of illness or accident) from providing the Services for an aggregate period of 10 days in any 4-week consecutive period;
      7. the Consultant or any Individual commits any fraud or dishonesty or acts in any manner which in the opinion of GBC brings or is likely to bring the Individual, the Consultant or GBC or any Interested Party into disrepute or is materially adverse to the interests of GBC or any Interested Party;
      8. the Consultant or any Individual commits any breach of GBC’s policies and procedures; or
      9. the Consultant or any Individual commits any offence under the Bribery Act 2010 or section 117(2) of the Local Government Act 1972.
      10. the Consultant shall fail to comply with or cause GBC to be in breach of GBC’s own contract standing orders or public procurement legislation including the Public Contracts Regulations 2015 particularly regulation 73 thereof.
   2. Notwithstanding the provisions of clauses 2.2, 3.10 or 12.1, the Engagement will terminate with immediate effect at the conclusion of phase 4 referred to in the Price Schedule section of the Quotation for Services without any liability on GBC to make any further payment to the Consultant (other than in respect of amounts accrued before the Termination Date) unless GBC at that time has confirmed in writing to the Consultant to continue with phases 5 and 6 of the Engagement.
   3. The rights of GBC under clauses 12.1 and 12.2 are without prejudice to any other rights that it might have at law to terminate the Engagement or to accept any breach of this Agreement on the part of the Consultant as having brought the Agreement to an end. Any delay by GBC in exercising its rights to terminate shall not constitute a waiver of these rights.
3. **Obligations On Termination**
   1. On the Termination Date the Consultant shall, and shall procure that each Individual shall:
      1. immediately deliver to GBC all Client Property which is in its or his possession or under its or his control;
      2. irretrievably delete any information relating to the Business of GBC or the business of any Interested Party stored on any magnetic or optical disk or memory and all matter derived from such sources which is in its or his possession or under its or his control outside the premises of GBC or any Interested Party; and
      3. provide, if requested by GBC, a signed statement that it or he has complied fully with its or his obligations under this clause 3.

1. **Status**
   1. The relationship of the Consultant (and each Individual) to GBC will be that of independent contractor and nothing in this Agreement shall render it (nor any Individual) an employee, worker, agent or partner of GBC and the Consultant shall not hold itself out as such and shall procure that no Individual shall not hold himself out as such.
   2. This Agreement constitutes a contract for the provision of services and not a contract of employment and accordingly the Consultant shall be fully responsible for and shall indemnify GBC for and in respect of:
      1. any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with either the performance of the Services or any payment or benefit received by any Individual in respect of the Services, where such recovery is not prohibited by law. The Consultant shall further indemnify GBC against all reasonable costs, expenses and any penalty, fine or interest incurred or payable by GBC in connection with or in consequence of any such liability, deduction, contribution, assessment or claim;
      2. any liability arising from any employment-related claim or any claim based on worker status (including reasonable costs and expenses) brought by any Individual or any Substitute against GBC arising out of or in connection with the provision of the Services.
   3. GBC may at its option satisfy such indemnity (in whole or in part) by way of deduction from payments due to the Consultant.
   4. The Consultant] warrants that it is not nor will it prior to the cessation of this Agreement, become a managed service company, within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.
2. **Notices**
   1. Any notice given under this Agreement shall be in writing and signed by or on behalf of the party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant party at its registered office for the time being or by sending it by fax to the fax number notified by the relevant party to the other party. Any such notice shall be deemed to have been received:
      1. if delivered personally, at the time of delivery;
      2. in the case of pre-paid recorded delivery or registered post, 48 hours from the date of posting; and
      3. in the case of fax, at the time of transmission.
   2. In proving such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post or that the notice was transmitted by fax to the fax number of the relevant party.

1. **Entire Agreement and Previous Contracts**
   1. Each party on behalf of itself acknowledges and agrees with the other party that:
      1. this Agreement together with any documents referred to in it constitutes the entire agreement and understanding between the Consultant and GBC and supersedes any previous agreement between them relating to the Engagement (which shall be deemed to have been terminated by mutual consent);
      2. in entering into this Agreement neither party has relied on any Pre-Contractual Statement; and
      3. the only remedy available to it or arising out of or in connection with any Pre-Contractual Statement shall be for breach of contract. Nothing in this Agreement shall, however, operate to limit or exclude any liability for fraud.
2. **Variation**
   1. No variation of this Agreement or of any of the documents referred to in it shall be valid unless it is in writing and signed by or on behalf of each of the parties.
3. **SEVERANCE**
   1. If any provision or part-provision of this Agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this Agreement.
4. **Counterparts**
   1. This Agreement may be executed in any number of counterparts, each of which, when executed, shall be an original, and all the counterparts together shall constitute one and the same instrument.
5. **Third Party Rights**
   1. Except as expressly provided elsewhere in this Agreement, a person who is not a party to this Agreement shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement but this does not affect any right or remedy of a third party which exists, or is available, apart from under that Act.
   2. The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this Agreement is not subject to the consent of any person that is not a party to this Agreement.
6. **Governing Law And Jurisdiction**
   1. This Agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England.
   2. The parties irrevocably agree that the courts of England shall have exclusive jurisdiction to settle any dispute or claim that arises out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).