

ENGLISH INSTITUTE OF SPORT LIMITED
TENDER FOR: Delivery of a Mental Health Champions programme including education workshops and ongoing reflective practice group sessions.
ISSUE DATE: 21 July 2021
TENDER RETURN DATE AND TIME (DEADLINE): 16:00 on 1/09/21

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Section 1 – Background and Overview

1.1 Introduction

Tenders are invited for the delivery of a Mental Health Champions programme including education workshops and ongoing reflective practice group sessions.

The detailed requirements are defined in the Specification set out in Section 3 below.

This ITT contains further information about the procurement process, the Services, and assessment questions for Tenderers to complete. Each Tenderer's response (Tender) should be detailed enough to allow EIS to make an informed selection of the most appropriate solution.

1.2 Confidentiality, freedom of information and transparency

- 1.2.1 This ITT is made available on condition that its contents (including the fact that the Tenderer has received this ITT) is kept confidential by the Tenderer and is not copied, reproduced, distributed or passed to any other person at any time, except for the purpose of enabling the Tenderer to submit a Tender.
- 1.2.2 As a public body, the EIS is subject to the provisions of the Freedom of Information Act 2000 (FOIA) in respect of information it holds (including third-party information). Any member of the public or other interested party may make a request for information.
- 1.2.3 The EIS shall treat all Tenderers' responses as confidential during the procurement process. Requests for information received following the procurement process shall be considered on a case-by-case basis, applying the principles of FOIA, which permits certain information to be withheld, for example where disclosure would be prejudicial to a party's commercial interests. Therefore, Tenderers are responsible for ensuring that any confidential or commercially sensitive information has been clearly identified to the EIS. If Tenderers think that any of the information given in their Tender is commercially sensitive (meaning it could reasonably cause prejudice to the organisation if disclosed to a third party); then Tenderers should clearly mark this as '**Not for disclosure to third parties**'. Tenderers should also give valid reasons in support of the information being exempt from disclosure under the FOIA.

1.3 EIS Background Information

The EIS provides support services to British Olympic and Paralympic sports, enabling sports and athletes to realise potential and to achieve excellence. The EIS is the team behind many of Great Britain's most successful sports; EIS staff deliver over 4,000 hours of service a week to more than 1,700 athletes. The EIS worked with 93% of the athletes and 31 of the 34 sports that won medals for Team GB and Paralympics GB at the Rio 2016 Games. The EIS is a grant funded organisation through UK Sport. Olympic and Paralympic summer and winter sports are able to engage with the EIS through their World Class Programme funding from UK Sport, English sports through their Sport England funding and professional sports through their funding bodies.

Funding is allocated to each Olympic cycle of 4 years; the current cycle is Tokyo which has been extended to 5 years, which will be followed by the Paris cycle. The EIS works closely with each National Governing Body (NGB) of sport to determine the specific requirements necessary to make a performance impact at an international level in their sport. The EIS works closely with the three other Home Country Sports Institutes (HCSI), in particular in sharing knowledge and best practice. This section is intended as a summary only. Tenderers are strongly advised to familiarise themselves with the business of the EIS and the high performance sport system in the UK. Further details of the services provided by the EIS can be found on the website www.eis2win.co.uk.

1.4 Tendering Tool

1.4.1 The EIS is utilising a designated e-mail address to manage this procurement and communicate with Tenderers. Accordingly, there will be no hard copy documents issued to Tenderers by the EIS and all communications with the EIS including the clarifications from the EIS will be conducted via e-mail at darryl.coakley@eis2win.co.uk.

1.5 Overview of the Invitation to Tender and the Procurement Process

1.5.1 The EIS wish to establish a contract for the provision of the Services identified in the Specification (Section 3 below).

1.5.2 Section 2 contains the Instructions to Tenderers (Part A) and provides information on how the Tenders will be evaluated (Part B).

1.5.3 Section 3 contains the Specification.

1.5.4 Section 4 contains the Response Requirements. This sets out how the Tenderer must respond to the Specification.

1.5.5 Section 5 contains the forms required to be completed and submitted with tenders.

1.5.6 Section 6 contains the standard Terms and Conditions.

1.5.7 Prior to commencing formal evaluation, Tenders will be checked to ensure they are fully compliant with the conditions of this ITT. Non-compliant Tenders may be rejected by the EIS. Tenders which are deemed by the EIS to be fully compliant will proceed to evaluation. These will be evaluated using the selection criteria and weightings detailed in the matrix set out in Section 2.

1.5.8 The EIS reserve the right to hold interviews as it considers appropriate, after Tender submission, the number of Tenderers invited to interview shall be determined at the EIS' discretion. The interviews are for the purpose of discussing information provided in the Tenders submitted by the Tenderers and is not a further presentation although Tenderers may be

required to submit additional materials for clarification of aspects of the Tender that don't provide sufficient detail. Subject to approval of the outcome of the interviews by the EIS, the EIS intend to appoint one successful Tenderer to enter into a Contract.

- 1.5.9 This ITT is made available in good faith. The EIS give no warranty as to the accuracy or completeness of the information contained in it. The EIS also disclaim any liability for any inaccuracy or incompleteness. The EIS reserve the right to cancel the Tender process at any point. The EIS are not liable for any costs resulting from any cancellation of this Tender process or for any other costs that Tenderers may incur by Tendering for this Contract. The EIS reserve the right not to conclude any contract(s) as a result of the current procurement process.
- 1.5.10 This ITT is made on the basis that it is an invitation for recommendation and is not of contractual effect, nor does it imply any legal commitment on the part of the Tenderers upon receiving their replies. No contract shall exist between EIS and any Tenderer unless made in writing and signed by an authorised EIS signatory.
- 1.5.11 Tenderers should note that it is the EIS's intention that any contractual arrangements made with a Tenderer will incorporate by reference this ITT, the Tenderer's response and any other correspondence between the Tenderer and EIS, or authorised representatives.

Section 2 – Tendering Process

Section 2 – Part A Instructions to Tenderers

2.1 Tender Validity

- 2.1.1 Your Tender must remain open for acceptance until the expiry of 90 calendar days from the deadline for the receipt of Tenders. A Tender valid for a shorter period may be rejected.
- 2.1.2 Only one Tender is allowed from each Tenderer. If a Tenderer submits more than one Tender; the EIS will evaluate the one with the latest time of submission and disregard the other(s).
- 2.1.3 The Tender must not be qualified in any way.
- 2.1.4 Any signatures must be made by a person who is authorised to commit the Tenderer to the Contract.
- 2.1.5 Your full registered business name and main office address must be given on all documents

2.2 Timetable

- 2.2.1 Set out below is the proposed procurement timetable. This is intended as a guide and whilst the EIS does not intend to depart from the timetable it reserves the right to do so at any stage.

STAGE	DATE and TIME
Issue of Invitation to Tender	21/07/21
Last date for requests for documents	16:00 on 04/08/21
Last date for clarification questions	16:00 on 11/08/21
Target date for responses to clarification questions	18/08/21
Deadline for submission of Tenders	16:00 on 01/09/21
Evaluation of tenders	01/09/21

Tenderer interviews/clarification meetings	(to be advised)
Notification of result of evaluation	15/09/21
Standstill period	15/09/21 to 26/09/21
Expected date of award of Contract	27/09/21
Contract commencement	01/10/21

2.3 Intention to Submit a Tender

- 2.3.1 Tenderers must indicate that they intend to submit a Tender and return it to the EIS contact named in paragraph 2.4.2 below, by the date and time indicated in the table at 2.2.1 above.
- 2.3.2 In the event that a Tenderer does not wish to participate further in this procurement exercise, the Tenderer should indicate such and confirm that they have deleted the ITT document set from their systems and destroyed any hard copies.

2.4 Submission of Tenders

- 2.4.1 The Form of Tender (section 5) must be duly completed and submitted with the Executive Summary (section 4), the Tenderer's response to Requirements (sections 4); and the completed forms (section 5). Failure to do so may render the Tender non-compliant and it may be rejected.
- 2.4.2 Tenderers must submit their response by email to darryl.coakley@eis2win.co.uk
- 2.4.3 The Tender and any documents accompanying it must be formatted in Adobe read only format.
- 2.4.4 Responses must be received by the date and time indicated in the table at 2.2.1 above. No Tender which is submitted late or which is incomplete or in the wrong format will not be considered. Tenderers should note there is no disadvantage in submitting a Tender response before the deadline.
- 2.4.5 Any queries in relation to the ITT should be directed to Darryl Coakley using the contact

details above.

- 2.4.6 Tenderers are invited to submit responses on the understanding that no charge will be made for those proposals or any other information or materials which may be supplied.

2.5 Acceptance of the Tender

- 2.5.1 The EIS shall be under no obligation to accept the lowest or any Tender.

2.6 Queries Relating to the Tender

- 2.6.1 The EIS will endeavour to answer all questions as quickly as possible but cannot guarantee a minimum response time. EIS has designated a specific window of time to deal with clarification requests from Tenderers. Answers will be communicated by the EIS from the e-mail address above.

- 2.6.2 Clarification requests can be submitted to the contact point up to the time and date indicated in the table at 2.2.1 above.

- 2.6.3 No further requests for clarifications will be accepted after the time and date indicated in the table at 2.2.1 above.

- 2.6.4 In order to ensure equality of treatment of Tenderers, the EIS intends to publish the questions and clarifications raised by Tenderers together with the EIS's responses (but not the source of the questions) to all Tenderers after the date for submitting questions has closed.

- 2.6.5 Tenderers should indicate if a query is of a commercially sensitive nature – where disclosure of such query and the answer would or would be likely to prejudice its commercial interests. However, if the EIS at its sole discretion does not consider the query to be of a commercially confidential nature or one which all Tenderers would potentially benefit from seeing both the query and the EIS response, the EIS will:

- 2.6.5.1 invite the Tenderer submitting the query to either declassify the query and allow the query along with the EIS's response to be circulated to all Tenderers; or

- 2.6.5.2 request the Tenderer, if it still considers the query to be of a commercially confidential nature, to withdraw the query.

- 2.6.6 The EIS reserves the right not to respond to a request for clarification or to circulate such a request where it considers that the answer to that request would or would be likely to prejudice its own commercial interests.

2.7 Amendments to Tender Document

- 2.7.1 At any time prior to the deadline for the receipt of Tenders, the EIS may modify the ITT. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing their Tenders, the EIS may, at its discretion, extend the deadline for receipt of Tenders.

2.8 Notification of Award

- 2.8.1 Once EIS has reached a decision in respect of a contract award, it will notify all bidders of that decision and of the identity and relative advantages and characteristics of the successful Tender as compared with the addressee's Tender and provide for a standstill period before entering into any Contract.

Section 2 – Part B Tender Evaluation

2.9 Introduction

- 2.9.1 The Tender process will be conducted to ensure that Tenders are evaluated fairly to ascertain the most suitable tender.
- 2.9.2 The EIS will check each Tender initially to make sure it has kept to the rules of the ITT. Evasive, unclear or hedged Tenders may be discounted in evaluation and may, at the EIS's discretion, be taken as a rejection by the Tenderer of the terms set out in this ITT.
- 2.9.3 The EIS will evaluate Tenders against the award criteria set out below.
- 2.9.4 The EIS reserve the right to seek clarification from any or all of the Tenderers during the evaluation period. This may be in writing or by means of a clarification meeting. The EIS will notify Tenderers of this in due course.

2.10 Award Criteria

- 2.10.1 Any Contract(s) awarded as a result of this procurement will be awarded on the basis of the offer that is the most economically advantageous to EIS, taking into account the following Award Criteria.

As part of the tender submission the EIS are seeking written submissions on the manner in which individual elements of this tender contract will be delivered as well as a pricing submission. The overall tender will be evaluated against the written response (quality) based on experience and general approach as well as the tender sum (price). Each tender shall be scored as follows:

Quality (60%)

Price (40%)

PRICE

The 40% for price will be allocated on the basis of 100 points going to the lowest tender price with each other tender receiving a reduction in points in relation to how close their tender was (e.g. a tender 10 % higher will receive 10% points less)

QUALITY

The quality elements will be scored by a panel in accordance with the scoring set out in the Table below headed "ITT Evaluation Scoring Scale", it may be possible that all responses are judged equal and receive the same score therefore leaving price as the deciding factor,

however it may be that the lowest tender is not the chosen tender if the quality questions are judged to be variable in answers.

The following quality and price criteria will form part of the tender and provides a summary of how marks are broken down across these areas:

HIGH LEVEL EVALUATION CRITERIA	
CRITERION	
Quality - 60%	Technical expertise, experience and knowledge of the delivery team in mental health training and provision of reflective practice groups (40%)
	Understanding the needs of EIS and World Class Programmes (WCPs) and the suitability of the proposed approach to meet those needs (25%)
	Flexibility and agility of the tenderer to meet the individual needs of EIS and the WCPs (25%)
	Project management arrangements (10%)
Price - 40%	Cost for workshop delivery (45%)
	Cost for reflective practice delivery (45%)
	Added value (10%)

The quality element of Tenders will be scored using the following scale of awarding marks between 0 and 8:

ITT Evaluation Scoring scale	
Score	Description of information received
0	Unsatisfactory submission, meets few of EIS basic expectations; poor understanding of project brief and significant omissions from the tender significant weakness in tender; very little or no evidence of innovation.

2	Poor submission with identifiable shortcomings – the submission shows areas of weakness and/or limited information has been provided; meets EIS basic expectations only; vague understanding of project brief; limited examples of innovation but are inappropriate.
4	Adequate/satisfactory submission – information submitted is acceptable; meets EIS basic expectations without offering any great advantages, adequate understanding of Service brief, satisfactory evidence of innovation but is not particularly beneficial to the EIS.
6	Good submission – submission demonstrates a sound and complete approach which has the potential to fully accord with EIS values and requirements and/or wholly meets expectations; good understanding of project brief; some innovative solutions that will be acceptable to the EIS; no appreciable concerns.
8	Excellent submission – demonstrates a sound and complete approach which will have the potential to meet EIS values and requirements in all respects; and/or exceeds expectations and provide added value; thorough understanding of project brief and requirements; excellent innovative solutions which offer potential for increased capacity; efficiency and value for money.

If a score of 2 or less is given for any answer to the specific questions, the bid will be deemed to be non-compliant, will fail the tendering evaluation and will not be considered further. For any tenders so excluded, that tenderer’s price shall be excluded from the ‘price’ evaluation.

2.10.2 Specific questions to be answered in respect of the Price and Quality criterion are set out in Section 4.

2.10.3 During the evaluation period, the EIS reserves the right to call for further information or clarification from the Tenderers to assist in its consideration of their submissions.

2.10.4 A Tender must be acceptable in respect of each and every category in order to be acceptable overall. In other words a Tender that scores well in nearly every category but is wholly unacceptable in one area is unlikely to be successful and may be rejected.

2.10.5 Each response to a quality requirement will be awarded a score of 0 to 8 according to the

scale in the table above. For clarity, proposals that meet the EIS's requirements as set out in this ITT would be awarded a score of 4. Tenderers can gain scores of 6 or 8 on the quality evaluation scoring scale below by providing innovative submissions that exceed the EIS's core expectations as expressed in the Specification. The weightings set out in the table above will then be applied to each question. The EIS encourages Tenderers to present innovative methods of service delivery that will add value to the project which will attract the highest scores.

2.10.6 If, for a given contract, tenders appear to be abnormally low in relation to the goods or services, the EIS shall, before it may reject those tenders, investigate the elements of the tender which it considers to be unsustainable. If the EIS's investigations determine the bid to be unsustainable, the EIS may reject the tender from the process.

2.11 Evaluation Process

The evaluation process will feature the following phases:

2.11.1 Phase 1 – Compliance Checks

a) **Receipt and Opening.**

ITT Responses will be formally logged upon receipt. Any ITT Response that is received after the deadline will be rejected and not considered for evaluation.

b) **Compliance Check.**

The EIS will then check that Tenderers have provided an Executive Summary, a Response against each of the Requirements, a Pricing Schedule and Completed Forms. In the event that a Tenderer is unable to provide a positive response for any of the requirements, or a detailed reason as to why a positive response cannot be given, the EIS may either exclude the Tenderer from further participation in the evaluation process or, at its discretion, may seek clarification. In the case of the latter, a failure by the Tenderer to provide a satisfactory response within the deadline specified in the request for clarification may result in its disqualification from the evaluation process.

The evaluation of Tenders will, as applicable, proceed through some, or all of the following phases of evaluation:

2.11.2 Phase 2 – Evaluation of Tender Responses

a) Qualitative/Technical Evaluation

b) Quantitative/Commercial Evaluation

2.11.3 Phase 3 - Moderation of Scores

Moderation and merging of qualitative and quantitative evaluation scores/rankings to produce

preliminary rankings.

2.11.4 Phase 4 - Selection of Tenderers for Interviews

At the sole discretion of number of Tenderers with the top scores may be invited to interview (such number to be determined at the EIS' discretion).

2.11.5 Final moderation meeting to moderate scores gathered from interviews (if required).

2.11.6 Evaluation report and recommendation

2.12 Award of Contract

2.12.1 Any contract award will be conditional on the Contract being approved under the EIS's internal procedures and the EIS being generally able to proceed.

2.12.2 Any resulting Contract will consist of:

- the Standard Terms and Conditions at section 6 (to be completed with relevant project-specific details following award) but not changed in other respects;
- the successful Tender.
- the Specification
- the Pricing Schedule
- Supporting documents, consisting of the completed forms at section 5

The Contract will be subject to English law and the exclusive jurisdiction of the English courts.

2.12.3 The EIS will inform all Tenderers in writing via email of any intention to award a contract. Following a minimum standstill period of 10 calendar days, subject to there being no substantive challenge to that intention, a contract will be formally awarded to the successful Tenderer.

Section 3 - Specification

Background & Aims

In 2020 UK Sport and the EIS initiated a Mental Health Champions programme with the aim of providing additional skills, knowledge and support to those individuals in the High Performance System who play a role in supporting mental health. We have defined a Mental Health Champion as someone who has undergone additional training to help promote positive mental health within their environment. The skills developed through the Mental Health Champion training and ongoing support may be applied in the following ways:

- Support and engage others in talking about mental health and wellbeing.
- Listen to and be a contact point for people who may be struggling with their mental health.
- Signpost others to appropriate internal and external support systems when required.
- Help to embed positive changes within their sport/environment alongside UK Sport's principles for promoting positive mental health.
- Advocate for mental health and help others to consider the impact of decisions on individual and collective mental wellbeing.
- Role modelling behaviours that are supportive of positive mental health.

Participation in the Mental Health Champion programme does not provide participants with a 'pastoral' role or additional responsibilities. It is important that they are not seen as a counsellor/psychologist and that they do not feel that they must go beyond their abilities and role to provide ongoing emotional support to someone because they are a Mental Health Champion.

To date the Mental Health Champion programme has consisted of a training period (over 2-3 days), followed by an ongoing support period (with facilitated reflective practice group sessions delivered every two-months). The programme has been delivered to 150 participants and the aim of this next phase of the programme is to continue training delivery to a further 150 participants whilst continuing to provide support to existing Mental Health Champions.

Contract Start Date & Length

Two years; 01/10/21 to 30/09/23

The English Institute of Sport Limited
The Manchester Institute of Health and Performance
299 Alan Turing Way, Manchester, M11 3BS

T 0870 759 0400 W eis2win.co.uk

Registered in England and Wales | Company registration number 04420052

Output / Objectives

1. Bring total number of trained MHCs in the High Performance System to 300 (150 MHCs trained to date)
2. Ongoing support for new MHCs provided via facilitated reflective practice group sessions
3. Continued delivery of reflective practice groups for existing MHCs

Key Information for Timelines

The EIS is keen to hear how tenderers would schedule training and ongoing support to new and existing Mental Health Champions over the two-year period.

For context, to date there are approximately 150 Mental Health Champions and 25 Reflective Practice Groups which have convened every-other month for facilitated reflective practice group sessions.

Between 2020 and 2021, the Mental Health Champion training workshops were delivered over 2 or 3 days (depending on participants' availability) to cohorts of 8-16 people.

Services Included

Delivery of training using existing Mental Health Champions programme content. The EIS Mental Health Team are willing to co-deliver workshop sessions.

Facilitation of reflective practice group sessions by individuals with credibility and expertise in the fields of mental health and mental health education.

Contribution to a regular review of the Mental Health Champion programme (including content of programme and participant progress).

Contribution to a Mental Health Champion conference or similar, annual or biennial CPD event.

Monitoring Arrangements

The successful tenderer will maintain records of workshop and reflective practice group session attendance, and work with the EIS to track participants' development and gather participant feedback.

Supporting Documents available that should be referred to

A training programme (with associated slide decks) already exists which can be delivered over two or three days.

An associated Mental Health Champion Handbook also already exists to supplement learning from the training workshops.

Deliverables

Workshops delivered to train an additional 150 Mental Health Champions between October 2021 and September 2023.

Regular reflective practice group sessions to be delivered to existing Mental Health Champions (beginning October 2021) and new Mental Health Champions until September 2023.

Report on the impact of the Mental Health Champions programme as delivered from October 2021 to September 2023.

Critical Issues: e.g. implementation, scope and technical

To date the majority of the Mental Health Champions programme has been delivered virtually due to Covid-19 restrictions. We would expect future delivery of elements of the programme to take place in-person (e.g. the initial training workshops), although are willing to use a mixture of face-to-face and virtual delivery (e.g. the reflective practice groups).

To date reflective practice group sessions have taken place every two months for sessions of approximately six Mental Health Champions per group. The interested parties should outline the size and regularity of these sessions in their application as they feel is appropriate and within budget.

The successful supplier will be able to work with the EIS Mental Health Team in identifying potential candidates for the Mental Health Champions programme.

Section 4 – Response Requirements

This section specifies the exact form required of Tenderer’s responses.

The EIS reserves the right to reject any Tender in which a response to a stated requirement is evaluated as not having been satisfactorily met or addressed.

A statement that a particular requirement will be met is not in itself sufficient. Such responses, or responses that are ambiguous, may be taken as failing to meet the Requirement. Detailed information regarding how, when and to what extent a Requirement can be met must be provided where appropriate – and, in evaluating a given requirement, scores will be awarded accordingly. Furthermore, if any requirement or part of a requirement cannot be met, this must be stated explicitly along with the reason why.

Where a Tenderer has already provided information to the EIS that addresses a specific requirement, this information should be re-stated in their Tender, not simply referenced.

All tenderers should submit an executive summary.

Guidance for the executive summary can be found below.

EXECUTIVE SUMMARY
The executive summary should focus on the key features of the Tenderer’s Response including all key assumptions made by the Tenderer (but excluding all pricing/financial information).
The objective of the executive summary is to provide the EIS with a clear, concise and complete summary of the Tenderer’s Response together with an insight into the reasoning and rationale behind the Response.
The executive summary should be no more than 3 pages of A4 text highlighting the key strengths of the Response to demonstrate how the Tender represents value for money for the EIS.
It is intended that the executive summary should provide a useful introduction to the Response for evaluators, as well as senior stakeholders who may not be involved in the detailed evaluation.
Whilst the executive summary will not be formally evaluated, it will be scrutinised for consistency with the Tenderer’s Response and clarification will be sought if required.
The executive summary must contain only information drawn from other areas of the Tenderer’s Response and must not contain any new material. Whilst diagrams and photographs may be used, they should be high level and should not be used to support other parts of the Response where more detailed information is required.

The Tenderer should also provide written responses to the following Requirements:

Supplier Contact Details

Please provide the following contact details:

- Supplier name
- Supplier address including head office and registered office
- Supplier company number
- Supplier website address
- sales contact details – name, phone number, email address.

Supplier History

Please provide the following background information on your company:

- details of parent company, subsidiaries, affiliates and partners
- length of time the Supplier company has been under current management ownership
- details of previous lawsuits filed
- details of current litigation.

Financial Stability

Please indicate the status of your organisation as follows:

- last two years' audited accounts including turnover by major revenue stream
- number of offices and staff in each location.

Professional Indemnity Cover

Details of professional indemnity cover to be provided by you.

Proposed Approach to Delivery / Solution Details

Please describe how you would go about delivering the objectives set out in Section 3 (above). In particular, refer to your:

- Experience of delivering education and reflective practice support in the area of mental health
- Understanding of the needs of the EIS and World Class Programmes (WCPs)
- Capacity for flexibility and agility in meeting these needs
- Approach to project management

Supplier Experience

Please provide details of two contracts that your organisation has held that are relevant to the EIS' requirements as stated in the specification.

Please include:-

- Customer organisation
- Customer contact name
- Customer e-mail address and phone number
- The date of contract award and finish
- Contract Value
- The names of any subcontractors/consortium members utilised.

Brief Contract description (no more than 100 words per contract description)

Project Plan

Please provide an outline project plan including milestones, dates, resources and deliverables.

COSTS

Please provide a **pricing schedule** for the implementation of the proposed solution. These costs should be broken down for the purpose of comparison:

- costs for delivery of workshop training sessions
- costs for delivery of reflective practice group sessions
- any additional costs such as project management, or project contingency

Please show the total cost over the term of the Contract.

- Tenderers must set out all proposed charges/daily rates to provide the Services.
- The charges/daily rates must cover all requirements and must include all costing elements required to provide the service in accordance with the Specification. Where EIS is expected to provide elements it should be made explicit in the detailed costings, so that it is clear what the total cost to EIS is.
- All charges/prices must be expressed in pounds sterling and should be exclusive of VAT, the Pricing schedule will form the basis of any resultant Contract.

The charges should remain fixed for the period of the full term of the Contract. If it is not possible to confirm this, Tenderers must clearly state the conditions by which they shall be subject to change.

21/07/2021

SECTION 5

FORMS (All forms to be completed and submitted with tender response)

THE ENGLISH INSTITUTE OF SPORT LIMITED

Provision of Mental Health Champion programme delivery (including training workshops and ongoing reflective practice group sessions)

FORM OF TENDER

The completion of the documents will be taken as part of the contract between the Tenderer and the EIS.

Please note that if any errors, omissions or mistakes are identified during the tender evaluation process the EIS may:

- a. Invalidate the tender; or
- b. Ask the tenderer to stand by the Tender as submitted or withdraw it; or
- c. Allow the Tender to be amended.

TO: THE ENGLISH INSTITUTE OF SPORT LIMITED

I/we hereby undertake to

- Provide the Services under the terms contained within this ITT
- At the price given in the Tender.

Dated this.....day of.....2021.

Signature.....position in company.....

Name of Company.....



THE ENGLISH INSTITUTE OF SPORT LIMITED

Provision of Mental Health Champion programme delivery (including training workshops and ongoing reflective practice group sessions)

BONA FIDE TENDERING CERTIFICATE

TO: The ENGLISH INSTITUTE OF SPORT LIMITED

We the undersigned having read the Invitation to Tender, the Specification and associated documents annexed hereto declare and hereby certify that we are not parties to any agreement or agreements under which:

- a) We have communicated the amount of our tender to any other person before the time of submission of this tender; or
- b) any other tenderer was reimbursed any part of their tendering costs; or
- c) our tendered prices have been adjusted by reference to those of any other tenderer.

Dated this.....day of.....2021

Signature.....position in company.....

Name of Company.....

THE ENGLISH INSTITUTE OF SPORT LIMITED

Provision of Mental Health Champion programme delivery (including training workshops and ongoing reflective practice group sessions)

DECLARATION OF CRIMINAL CONVICTIONS, TAX AFFAIRS AND CONTROVERSIAL SITUATIONS

TO: THE ENGLISH INSTITUTE OF SPORT LIMITED

1. We the undersigned having read the Invitation to Tender, the Specification and associated documents annexed hereto declare and hereby declare that, within the past five years, our organisation (or any member of your proposed consortium, if applicable), Directors or partner or any other person who has powers of representation, decision or control been convicted of any of the following offences:

Offences	Please indicate your answer by marking 'X' in the relevant box.	
	Yes	No
(a) conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Council Framework Decision 2008/841/JHA on the fight against organised crime;		
(b) corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906;		
(c) the common law offence of bribery;		
(d) bribery within the meaning of sections 1, 2 or 6 of the Bribery Act 2010; or section 113 of the Representation of the People Act 1983;		
(e) any of the following offences, where the offence relates to fraud affecting the European Communities' financial interests as defined by		

Article 1 of the Convention on the protection of the financial interests of the European Communities:		
(i) the offence of cheating the Revenue;		
(ii) the offence of conspiracy to defraud;		
(iii) fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;		
(iv) fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;		
(v) fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;		
(vi) an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;		
(vii) destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;		
(viii) fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or		
(ix) the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles for use in frauds within the meaning of section 7 of that Act;		
(f) any offence listed—		
(i) in section 41 of the Counter Terrorism Act 2008; or		
(ii) in Schedule 2 to that Act where the court has determined that there is a terrorist connection;		

(g) any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);		
(h) money laundering within the meaning of sections 340(11) and 415 of the Proceeds of Crime Act 2002;		
(i) an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;		
(j) an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;		
(k) an offence under section 59A of the Sexual Offences Act 2003;		
(l) an offence under section 71 of the Coroners and Justice Act 2009		
(m) an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994; or		
(n) any other offence within the meaning of Article 57(1) of the Public Contracts Directive—		
(i) as defined by the law of any jurisdiction outside England and Wales and Northern Ireland; or		
(ii) created, after the day on which these Regulations were made, in the law of England and Wales or Northern Ireland.		
(j) any offence under section 1, 2 or 4 of the Modern Slavery Act 2015		

2. We also declare we are not subject to any a judicial or administrative proceedings or decisions having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which our organisation is

established (if outside the UK), that our organisation is in breach of obligations related to the payment of tax or social security contributions.

Non-payment of taxes or social security contributions

If you are subject to judicial or administrative proceedings or decisions having final and binding effect, please provide further details in this box. Please also use this box to confirm whether you have paid, or have entered into a binding arrangement with a view to paying, including, where applicable, any accrued interest and/or fines.

3. We also declare, that within the past three years, none of the following controversial situations have applied, or currently apply, to our organisation.

Controversial Situations	Please indicate your answer by marking 'X' in the relevant box.	
	Yes	No
(a) your organisation has violated applicable obligations in the fields of environmental, social and labour law established by EU law, national law, collective agreements or by the international environmental, social and labour law provisions in the jurisdiction of England & Wales, Scotland or Northern Ireland as amended from time to time;		
(b) your organisation is bankrupt or is the subject of insolvency or winding-up proceedings, where your assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of England & Wales, Scotland or Northern Ireland;		
(c) your organisation is guilty of grave professional misconduct, which renders its integrity questionable;		

(d) your organisation has entered into agreements with other economic operators aimed at distorting competition;		
(e) your organisation has a conflict of interest (see note below) that cannot be effectively remedied by other, less intrusive, measures;		
(f) the prior involvement of your organisation in the preparation of this procurement procedure has resulted in a distortion of competition, that cannot be remedied by other, less intrusive, measures;		
(g) your organisation has shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions;		
(h) your organisation—		
(i) has been guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria; or		
(i) your organisation has undertaken to		
(aa) unduly influence the decision-making process of the contracting authority, or		
(bb) obtain confidential information that may confer upon your organisation undue advantages in the procurement procedure; or		
(j) your organisation has negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.		

Conflicts of interest

The EIS may exclude you if there is a conflict of interest which cannot be effectively remedied. The concept of a conflict of interest includes any situation where relevant staff members have, directly or indirectly, a financial, economic or other personal interest which might be perceived to compromise their impartiality and independence in the context of the procurement procedure.

Where there is any indication that a conflict of interest exists or may arise then it is your responsibility to inform the EIS, detailing the conflict in a separate document. Provided that it has been carried out in a transparent manner, routine pre-market engagement carried out by the EIS should not represent a conflict of interest for you.

Dated this.....day of.....2021

Signature.....position in company.....

Name of Company.....

SECTION 6: Standard Terms and Conditions

Attn:

By email to:

Date:

Your ref:

Our ref:

Dear [],

Award of contract for the supply of Services.

Following your tender for the supply of [] services to The English Institute of Sport Limited ("EIS"), we are pleased to award this contract to you.

This letter (the "**Award Letter**") and its Annexes set out the terms of the Agreement between EIS as the "**Customer**" and [] as the "**Supplier**" for the provision of the Services. Unless the context otherwise requires, capitalised expressions used in this Award Letter have the same meanings as in the terms and conditions set out in Annex 1 to this Award Letter (the "**Conditions**"). In the event of any conflict between this Award Letter and the Conditions, this Award Letter shall prevail. Please do not attach any of your terms and conditions to this Award Letter or your invoices as they will not be accepted by the Customer and may delay the conclusion of the Agreement.

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

- 1) The Services shall be performed at []
- 2) The Charges for the Services shall be as set out in Annex 2 and are paid in accordance with clause 5 of the Conditions.
- 3) The specification of the Services to be supplied is as set out in Annex 3.
- 4) The nature of any Processing of Personal Data is as set out in Annex 4.
- 5) The Term shall commence on [] and the Expiry Date shall be []
- 6) The address for notices of the Parties are:

Customer

Manchester Institute of Health &
Performance, 299 Alan Turing Way,
Manchester M11 3BS

Supplier

[]

7) [The following persons are Key Personnel for the purposes of the Agreement:]

Name

Title

Liaison

For general liaison your contact will continue to be [] (the "**Contract Manager**") or, in his/her absence, [].

We thank you for your co-operation to date, and look forward to forging a successful working relationship resulting in a smooth and successful delivery of the Services. Please confirm your acceptance of the award of this contract by signing and returning the enclosed copy of this Award Letter to [] at the above email address **within 10 Working Days** from the date of this Award Letter. No other form of acknowledgement will be accepted. Please remember to quote the reference number above in any future communications relating to this Award Letter or the Agreement.

Yours sincerely,

Signed for and on behalf of **The English Institute of Sport Limited**

Name:

Signature:

Date:

Supplier Acceptance Form

We accept the terms set out in this Award Letter and its Annexes, including the Conditions (together the "**Agreement**"). We confirm the undersigned is a duly authorised member of Staff of the Supplier to sign the Agreement.

Signed for and on behalf of []

Name:

Signature:

Date:

Annex 1 - Conditions

1 Interpretation

1.1 In these Conditions:

"Agreement"	means the contract between (i) the Customer; and (ii) the Supplier constituted by the Supplier's countersignature of the Award Letter, for the supply of Services in accordance with these Conditions;
"Applicable Law"	means any and all applicable statutes, by-laws, directives, regulations (including any rules issued or published by any UK regulator), statutory instruments or any delegated or subordinated legislation;
"Award Letter"	means the letter from the Customer to the Supplier printed above these Conditions;
"Authorised Representatives"	means the directors, authorised officers, employees, agents, auditors and advisers of the Customer;
"Breach of Security"	of means a breach of security leading to accidental or unlawful destruction, loss, alternation, unauthorised disclosure of, or access to Personal Data;
"Charges"	means the charges for the Services as specified in Annex 2;
"Conditions"	means these terms and conditions, as set out at Annex 1 to the Award Letter (and any replacement or variation in accordance with clause Error! Reference source not found.);
"Confidential Information"	means all information including trade secrets, operations, processes, product information, software, know-how, designs, the business, affairs, plans or intentions whether written or oral (however recorded), provided by the disclosing Party to the receiving Party and which (i) is known by the receiving Party to be confidential; (ii) is marked as or stated to be confidential; or (iii) ought reasonably to be considered by the receiving Party to be confidential;
"Corruption"	means bribery, extortion, fraud, deception, collusion, cartels, abuse of power, embezzlement, trading in influence, money-laundering, or any similar activity in relation to the services and as defined under the Bribery Act 2010 and any amendment or re-enactment, any other acts, orders, regulations and codes of practice relating to the activities set out above;
"Customer"	means the person named as the Customer in the Award Letter;
"Customer Materials"	has the meaning given to it in clause Error! Reference source not found. ;
"Data Protection Legislation"	means (a) any law, statute, declaration, decree, directive, legislative enactment, order, ordinance, regulation, rule or other binding restriction (as amended, consolidated or re-enacted from time to time) which relates to the protection of individuals with regards to the Processing of Personal Data to which a party is subject, including the Data Protection Act 2018 and the General Data Protection Regulation; and (b) any code of practice or guidance published by the UK Information Commissioner's Office (ICO) or other applicable Regulator or the European Data Protection Board from time

to time and "Data Controller", "Data Processor" and "Data Subject" shall have the meaning given to them in the Data Protection Legislation;

"Expiry Date"	means the date for expiry of the Agreement as set out in the Award Letter;
"FOIA"	means the Freedom of Information Act 2000;
"Indemnity Claim"	has the meaning given to it in clause Error! Reference source not found. ;
"Information"	has the meaning given under section 84 of the FOIA;
"Intellectual Property Rights"	means any and all patents, trademarks, service marks, design rights, copyright, software rights, database rights, know-how, trade or business names and all or any other intellectual or industrial property rights whether or not registered or capable of registration and whether subsisting in the United Kingdom or any other part of the world or now or in the future with all or any goodwill, other similar rights or obligations relating or attached to such rights;
"Key Personnel"	means any persons specified as such in the Award Letter or otherwise notified as such by the Customer to the Supplier in writing;
"Mediator"	Has the meaning given to it in clause Error! Reference source not found. ;
"Nature of Data Processing"	means the nature of any Processing of Personal Data carried out under the Agreement as specified in Annex 4;
"Party"	means the Supplier or the Customer (as appropriate) and "Parties" shall mean both of them;
"Purchase Order Number"	means the Customer's unique number relating to the supply of the Services;
"Relevant Conviction"	has the meaning given to it in clause Error! Reference source not found. ;
"Request for Information"	has the meaning set out in the FOIA as relevant (where the meaning set out for the term "request" shall apply);
"Restricted Country"	means (a) a country outside the European Economic Area, and (b) any country not deemed adequate by the European Commission pursuant to Article 25(6) of Directive 95/46/EC;
"Services"	means the services to be supplied by the Supplier to the Customer under the Agreement;
"Specification"	means the specification for the Services (including as to quantity, description and quality) as specified in Annex 3;
"Staff"	means all directors, officers, employees, agents, consultants and contractors of the Supplier and/or of any sub-contractor of the Supplier engaged in the performance of the Supplier's obligations under the Agreement;
"Staff Vetting Procedures"	means vetting procedures that accord with good industry practice (including a Disclosure and Barring Service check) or, where requested by the Customer, the Customer's procedures for the vetting of Staff as provided to the Supplier from time to time;

“Supplier”	means the person named as the Supplier in the Award Letter;
“Term”	means the period from the start date of the Agreement set out in the Award Letter to the Expiry Date as such period may be extended in accordance with clause Error! Reference source not found. or terminated in accordance with the terms and conditions of the Agreement;
“VAT”	means value added tax in accordance with the provisions of the Value Added Tax Act 1994; and
“Working Day”	means a day (other than a Saturday or Sunday) on which banks are open for business in the City of London.

1.2 In these Conditions, unless the context otherwise requires:

- 1.2.1 references to numbered clauses are references to the relevant clause in these Conditions;
- 1.2.2 any obligation on any Party not to do or omit to do anything shall include an obligation not to allow that thing to be done or omitted to be done;
- 1.2.3 the headings to the clauses of these Conditions are for information only and do not affect the interpretation of the Agreement;
- 1.2.4 a reference to a statute or statutory provision is a reference to it as amended or re-enacted. A reference to a statute or statutory provision includes any subordinate legislation or byelaw made under that statute or statutory provision, as amended or re-enacted;
- 1.2.5 Any phrase introduced by the terms **including, include, in particular** or any similar expression shall be construed as illustrative and shall not limit the sense of the words preceding those terms.

2 Basis of Agreement

- 2.1 The Award Letter constitutes an offer by the Customer to purchase the Services subject to and in accordance with these Conditions.
- 2.2 The offer comprised in the Award Letter shall be deemed to be accepted by the Supplier on receipt by the Customer of a copy of the Award Letter countersigned by the Supplier within 10 Working Days of the date of the Award Letter.

3 Supply of Services

- 3.1 In consideration of the Customer’s agreement to pay the Charges, the Supplier shall supply the Services to the Customer for the Term subject to and in accordance with these Conditions.
- 3.2 In supplying the Services, the Supplier shall:
 - 3.2.1 co-operate with the Customer in all matters relating to the Services and comply with all the Customer’s instructions;
 - 3.2.2 perform the Services with all reasonable care, skill and diligence in accordance with good industry practice expected of a competent provider of the Services in the Supplier’s industry, profession or trade;
 - 3.2.3 perform the Services in accordance with the timelines and standards stated in Annex 3;

- 3.2.4 use Staff who are suitably qualified, trained, skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with the Agreement;
 - 3.2.5 ensure that the Services shall conform with all descriptions and specifications set out in the Specification;
 - 3.2.6 comply with all applicable laws statutes, regulations and codes from time to time in force, and any Customer policies provided by the Customer to the Supplier;
 - 3.2.7 provide all equipment, materials, tools and vehicles and other items as are required to provide the Services;
 - 3.2.8 obtain and at all times maintain all necessary licences and consents;
 - 3.2.9 hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (the "**Customer Materials**") in its possession and in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose, use or encumber the Customer Materials other than in accordance with the Customer's written instructions or authorisation;
 - 3.2.10 not do or omit to do anything which may cause the Customer to lose (i) any ownership rights over the Customer Materials or (ii) any licence, authority, consent or permission on which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services; and
 - 3.2.11 comply with any additional obligations as set out in the Specification.
- 3.3 The Customer may by written notice to the Supplier at any time request a variation to the scope of the Services. In the event that the Supplier agrees to any variation to the scope of the Services, the Charges shall be subject to fair and reasonable adjustment to be agreed in writing between the Customer and the Supplier.
- 3.4 If the Award Letter states that Services may be required from time to time then the Customer does not guarantee to order any particular volume of Services and reserves the right to place orders for Services with other suppliers.

4 Term

- 4.1 The Agreement shall take effect on the date specified in Award Letter and shall expire on the Expiry Date, unless it is otherwise extended in accordance with clause **Error! Reference source not found.** or terminated in accordance with these Conditions.
- 4.2 The Customer may extend the Agreement for a period of up to 6 months by giving not less than 10 Working Days' notice in writing to the Supplier prior to the Expiry Date. Nothing in the foregoing guarantees a right of extension to the Supplier. If the Agreement is extended the terms and conditions (including these Conditions) of the Agreement shall apply throughout any such extended period.

5 Charges, Payment and Recovery of Sums Due

- 5.1 The Charges for the Services shall be as set out in the Award Letter and shall be the full and exclusive remuneration of the Supplier in respect of the supply of the Services. Unless otherwise agreed in writing by the Customer, the Charges shall include every cost and expense of the Supplier directly or indirectly incurred in connection with the performance of the Services.

- 5.2 The Supplier shall invoice the Customer as specified in the Agreement. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including the relevant Purchase Order Number and a breakdown of the Services supplied in the invoice period.
- 5.3 In consideration of the supply of the Services by the Supplier, the Customer shall pay the Supplier the invoiced amounts no later than 30 days after receipt of a valid invoice which includes a valid Purchase Order Number. The Customer may, without prejudice to any other rights and remedies under the Agreement, withhold or reduce payments in the event of unsatisfactory performance. The currency in which payment shall be made is pounds sterling.
- 5.4 All amounts stated are exclusive of VAT which shall be charged at the prevailing rate. The Customer shall, following the receipt of a valid VAT invoice, pay to the Supplier a sum equal to the VAT chargeable in respect of the Services.
- 5.5 If there is a dispute between the Parties as to the amount invoiced, the Customer shall pay the undisputed amount. The Supplier shall not suspend the supply of the Services unless the Supplier is entitled to terminate the Agreement for a failure to pay undisputed sums in accordance with clause **Error! Reference source not found.**. Any disputed amounts shall be resolved through the dispute resolution procedure detailed in clause **Error! Reference source not found.**.
- 5.6 If a payment of an undisputed amount is not made by the Customer by the due date, then the Customer shall pay the Supplier interest at the interest rate of 2% above the base rate of the Bank of England.
- 5.7 If any sum of money is recoverable from or payable by the Supplier under the Agreement (including any sum which the Supplier is liable to pay to the Customer in respect of any breach of the Agreement), that sum may be deducted unilaterally by the Customer from any sum then due, or which may come due, to the Supplier under the Agreement or under any other agreement or contract with the Customer. The Supplier shall not be entitled to assert any credit, set-off or counterclaim against the Customer in order to justify withholding payment of any such amount in whole or in part..

6 Premises and equipment

- 6.1 If necessary, the Customer shall provide the Supplier with reasonable access at reasonable times to its premises for the purpose of supplying the Services. All equipment, tools and vehicles brought onto the Customer's premises by the Supplier or the Staff shall be at the Supplier's risk.
- 6.2 If the Supplier supplies all or any of the Services at or from the Customer's premises, on completion of the Services or termination or expiry of the Agreement (whichever is the earlier) the Supplier shall vacate the Customer's premises, remove the Supplier's plant, equipment and unused materials and all rubbish arising out of the provision of the Services and leave the Customer's premises in a clean, safe and tidy condition. The Supplier shall be solely responsible for making good any damage to the Customer's premises or any objects contained on the Customer's premises which is caused by the Supplier or any Staff, other than fair wear and tear.
- 6.3 If the Supplier supplies all or any of the Services at or from its premises or the premises of a third party, the Customer may, during normal business hours and on reasonable notice, inspect and examine the manner in which the relevant Services are supplied at or from the relevant premises and may remove the Customer Materials.
- 6.4 The Customer shall be responsible for maintaining the security of its premises in accordance with its standard security requirements. While on the Customer's premises the Supplier shall, and

shall procure that all Staff shall, comply with all the Customer's security requirements.

- 6.5 Where all or any of the Services are supplied from the Supplier's premises, the Supplier shall, at its own cost, comply with all security requirements specified by the Customer in writing.
- 6.6 Without prejudice to clause **Error! Reference source not found.**, any equipment provided by the Customer for the purposes of the Agreement shall remain the property of the Customer and shall be used by the Supplier and the Staff only for the purpose of carrying out its obligations under the Agreement. Such equipment shall be returned promptly to the Customer on expiry or termination of the Agreement.
- 6.7 Risk in the Customer Materials shall pass to the Supplier on delivery and shall remain at the Supplier's risk until their delivery into the possession of any of the Customer or the Customer's carrier, agent or logistics provider in each case as evidenced by written receipt.
- 6.8 Subject to clause 14.2, the Provider shall be liable for:
- (a) unaccountable losses of Customer Materials while in its custody or under its control;
 - (b) ascertainable losses, destruction of or damage to the Goods due to the Supplier's negligence or wilful acts, omissions and default, including theft, misappropriation or damage caused by the Supplier, its employees, agents or representatives while the Customer Materials are in the custody or under the control of the Supplier. Customer Materials supplied by the Customer shall be deemed to be in a good condition when received by the Supplier or relevant Staff unless the Customer is notified otherwise in writing within 5 Working Days from and including the date of receipt;
- (together "Loss")
- 6.9 Subject to clause 14.2, the Supplier shall compensate the Customer for any Loss at the value reasonably attributed to such Customer Materials by the Customer, taking into account the age of such Customer Materials and any notice provided to the Customer under clause 6.8(b) above.

7 Staff and Key Personnel

- 7.1 If the Customer reasonably believes that any of the Staff are unsuitable to undertake work in respect of the Agreement, it may, by giving written notice to the Supplier:
- 7.1.1 refuse admission to the relevant person(s) to the Customer's premises;
 - 7.1.2 direct the Supplier to end the involvement in the provision of the Services of the relevant person(s); and/or
 - 7.1.3 require that the Supplier replace any person removed under this clause with another suitably qualified person and procure that any security pass issued by the Customer to the person removed is surrendered,
- and the Supplier shall comply with any such notice.
- 7.2 The Supplier shall:
- 7.2.1 if requested, ensure that all Staff are vetted in accordance with the Staff Vetting Procedures;

- 7.2.2 if requested, provide the Customer with a list of the names and addresses (and any other relevant information) of all persons who may require admission to the Customer's premises in connection with the Agreement; and
- 7.2.3 procure that all Staff comply with any rules, regulations and requirements reasonably specified by the Customer.

- 7.3 Where the Customer requires the Supplier to ensure that any Staff employed in the provision of the Services is vetted under clause **Error! Reference source not found.**, the Supplier shall ensure that no person who discloses that he/she has a conviction that is relevant to the nature of the Services, relevant to the work of the Customer, or is of a type otherwise advised by the Customer (each such conviction a "Relevant Conviction"), or is found by the Supplier to have a Relevant Conviction (whether as a result of a police check, a Disclosure and Barring Service check or otherwise) is employed or engaged in the provision of any part of the Services.
- 7.4 Any Key Personnel shall not be released from supplying the Services without the agreement of the Customer, except by reason of long-term sickness, maternity leave, paternity leave, termination of employment or other extenuating circumstances beyond the Supplier's reasonable control.
- 7.5 Any replacements to the Key Personnel shall be subject to the prior written agreement of the Customer (not to be unreasonably withheld). Such replacements shall be of at least equal status or of equivalent qualification, training, experience and skills to the Key Personnel being replaced and be suitable for the responsibilities of that person in relation to the Services.

8 Assignment and sub-contracting

- 8.1 The Supplier shall not without the written consent of the Customer assign, sub-contract, novate or in any way dispose of the benefit and/or the burden of the Agreement or any part of the Agreement. The Customer may, in the granting of such consent, provide for additional terms and conditions relating to such assignment, sub-contract, novation or disposal. The Supplier shall be responsible for the acts and omissions of its sub-contractors as though those acts and omissions were its own.
- 8.2 Where the Supplier enters into a sub-contract for the purpose of performing its obligations under the Agreement, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Supplier to the sub-contractor within a specified period not exceeding 30 days from the receipt of a valid invoice.
- 8.3 Where the Customer has consented to the placing of sub-contracts, the Supplier shall, at the request of the Customer, send copies of each sub-contract, to the Customer as soon as is reasonably practicable.
- 8.4 The Customer may assign, novate, or otherwise dispose of its rights and obligations under the Agreement without the consent of the Supplier provided that such assignment, novation or disposal shall not increase the burden of the Supplier's obligations under the Agreement.

9 Intellectual Property Rights

- 9.1 All Intellectual Property Rights in any materials provided by the Customer to the Supplier for the purposes of the Agreement shall remain the property of the Customer.
- 9.2 The Customer hereby grants the Supplier a royalty-free, non-exclusive and non-transferable licence to use such materials as required until termination or expiry of the Agreement for the sole purpose of enabling the Supplier to perform its obligations under the Agreement.

- 9.3 All Intellectual Property Rights in any materials created or developed by the Supplier pursuant to the Agreement or arising as a result of the provision of the Services shall vest in the Customer. If, and to the extent, that any Intellectual Property Rights in such materials vest in the Supplier by operation of law, the Supplier hereby assigns to the Customer by way of a present assignment of future rights that shall take place immediately on the coming into existence of any such Intellectual Property Rights all its Intellectual Property Rights in such materials (with full title guarantee and free from all third party rights).
- 9.4 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Agreement, including all right, title and interest in and to the Intellectual Property Rights assigned to the Customer in accordance with clause **Error! Reference source not found.**
- 9.5 The Supplier shall obtain waivers of all moral rights in any product or material arising as a result of the provision of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.
- 9.6 The Supplier hereby grants the Customer a perpetual, royalty-free, irrevocable and non-exclusive licence (with a right to sub-license) to use:
- (a) any Intellectual Property Rights vested in or licensed to the Supplier on the date of the Agreement; and
 - (b) any Intellectual Property Rights created during the Term but which are neither created or developed pursuant to the Agreement nor arise as a result of the provision of the Services,
- including any modifications to or derivative versions of any such Intellectual Property Rights, which the Customer reasonably requires in order to exercise its rights and take the benefit of the Agreement including the Services provided.
- 9.7 The Supplier shall indemnify, and keep indemnified, the Customer in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, penalties, and reasonable legal and other professional fees awarded against or incurred or paid by the Customer as a result of or in connection with any claim made against the Customer for actual or alleged infringement of a third party's intellectual property arising out of, or in connection with, the supply or use of the Services, to the extent that the claim is attributable to the acts or omission of the Supplier or any Staff.

10 Governance and Records

- 10.1 The Supplier shall:
- 10.1.1 attend progress meetings with the Customer at the frequency and times specified by the Customer and shall ensure that its representatives are suitably qualified to attend such meetings; and
 - 10.1.2 submit progress reports to the Customer at the times and in the format specified by the Customer.
- 10.2 The Supplier shall keep and maintain until 6 years after the end of the Agreement, or as long a period as may be agreed between the Parties, full and accurate records of the Agreement including the Services supplied under it and all payments made by the Customer. The Supplier

shall on request afford the Customer or the Customer's Authorised Representatives such access to those records as may be reasonably requested by the Customer in connection with the Agreement.

11 Confidentiality, Transparency and Publicity

11.1 Subject to clause **Error! Reference source not found.**, each Party shall:

11.1.1 treat all Confidential Information it receives as confidential, safeguard it accordingly and not disclose it to any other person without the prior written permission of the disclosing Party; and

11.1.2 not use or exploit the disclosing Party's Confidential Information in any way except for the purposes anticipated under the Agreement.

11.2 Notwithstanding clause **Error! Reference source not found.**, a Party may disclose Confidential Information which it receives from the other Party:

11.2.1 where disclosure is required by applicable law or by a court of competent jurisdiction;

11.2.2 to the Serious Fraud Office where the Party has reasonable grounds to believe that the other Party is involved in activity that may constitute Corruption;

11.2.3 where the receiving Party is the Supplier, to the Staff on a need to know basis to enable performance of the Supplier's obligations under the Agreement provided that the Supplier shall procure that any Staff to whom it discloses Confidential Information pursuant to this clause **Error! Reference source not found.** shall observe the Supplier's confidentiality obligations under the Agreement; and

11.2.4 where the receiving Party is the Customer:

(a) on a confidential basis to the Authorised Representatives of the Customer; or

(b) in accordance with clause **Error! Reference source not found.**,

and for the purposes of the foregoing, references to disclosure on a confidential basis shall mean disclosure subject to a confidentiality agreement or arrangement containing terms no less stringent than those placed on the Customer under this clause **Error! Reference source not found.**

11.3 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of the Agreement is not Confidential Information and the Supplier hereby gives its consent for the Customer to publish the Agreement in its entirety to the general public (but with any information that is exempt from disclosure in accordance with the FOIA redacted) including any changes to the Agreement agreed from time to time. The Customer may consult with the Supplier to inform its decision regarding any redactions but shall have the final decision in its absolute discretion whether any of the content of the Agreement is exempt from disclosure in accordance with the provisions of the FOIA.

11.4 The Supplier shall not, and shall procure that its Staff do not, make any press announcement, conduct any marketing activities with regard to its relationship with the Customer, use the Customer's logo or marks or publicise the Agreement or any part of the Agreement in any way, except with the prior written consent of the Customer (which may be withheld at the Customer's sole discretion).

12 Freedom of Information

12.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and

shall:

- 12.1.1 provide all necessary assistance and cooperation as reasonably requested by the Customer to enable the Customer to comply with its obligations under the FOIA;
 - 12.1.2 transfer to the Customer all Requests for Information relating to the Agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - 12.1.3 provide the Customer with a copy of all Information belonging to the Customer requested in the Request for Information which is in its possession or control in the form that the Customer requires within 5 Working Days (or such other period as the Customer may reasonably specify) of the Customer's request for such Information; and
 - 12.1.4 not respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 12.2 The Supplier acknowledges that the Customer may be required under the FOIA to disclose Information concerning the Supplier or the Services (including commercially sensitive information) without consulting or obtaining consent from the Supplier. In these circumstances the Customer shall, in accordance with any relevant guidance issued under the FOIA, take reasonable steps, where appropriate, to give the Supplier advance notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 12.3 Notwithstanding any other provision in the Agreement, the Customer shall be responsible for determining in its absolute discretion whether any Information relating to the Supplier or the Services is exempt from disclosure in accordance with the FOIA.

13 Protection of Personal Data and Security of Data

- 13.1 Each Party shall comply with its respective obligations under the Data Protection Legislation and shall not perform its obligations under the Agreement in such a way as to cause the other Party to be in breach of any of its obligations under the Data Protection Legislation, to the extent that Party is aware, or ought reasonably to be aware that the same would breach such obligations.
- 13.2 The Parties acknowledge that the factual arrangements between them dictate the role of each Party in respect of the Data Protection Legislation. Notwithstanding the foregoing, the Parties each agree that the nature of the Processing under the Agreement will be as set out in Annex 4;
- 13.3 Notwithstanding the general obligation in clause **Error! Reference source not found.**, where the Supplier is Processing Personal Data for the Customer as a Data Processor the Supplier shall:
- 13.3.1 Process the Personal Data only on behalf of the Customer for the purposes of this Agreement only and only in accordance with instructions from the Customer;
 - 13.3.2 not otherwise modify, amend or alter the contents of the Personal Data unless specifically authorised to do so in writing by the Customer;
 - 13.3.3 implement appropriate technical and organisational measures to protect Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure (including in line with the security requirements of the Customer as notified to the Supplier from time to time);
 - 13.3.4 not disclose or transfer the Personal Data to any third party or Supplier Staff unless necessary for the provision of the Services and, for any disclosure or transfer of Personal Data to any third party, obtain the prior written consent of the Customer (save where such disclosure or transfer is specifically authorised under the Agreement). Without limiting the foregoing where the Supplier wishes to appoint a sub-contractor for the

purpose of performing the Services or in relation to any of its obligations under the Agreement in accordance with clause **Error! Reference source not found.**, the Supplier shall where such sub-contractor shall Process Personal Data ensure that it has entered into a written agreement with the sub-contractor on terms which are substantially the same as, but no less onerous than, the terms set out in this clause **Error! Reference source not found.** and a provision restricting the ability of the sub-contractor to sub-contract all or any part of the services provided to the Supplier under such contract without first seeking the consent of the Customer;

- 13.3.5 take all reasonable steps to ensure the reliability and integrity of the Supplier Staff who have access to the Personal Data and ensure that the Supplier Staff have entered into appropriate contractually binding confidentiality undertakings or are bound by relevant binding confidentiality undertakings by enactment;
- 13.3.6 co-operate as requested by the Customer to enable the Customer to comply with any exercise of rights by a Data Subject under the Data Protection Legislation;
- 13.3.7 provide the Customer with full cooperation and assistance (within the timescales, reasonably required by the Customer) to ensure the Customer's compliance with its obligations under the Data Protection Legislation, including:
 - (a) obligations relating to ensuring the security and integrity of the Personal Data;
 - (b) obligations relating to notification of any Breach of Security to any supervising authority and/or the Data Subject;
 - (c) undertaking any data protection impact assessments (as required by the Data Protection Legislation);
- 13.3.8 notify the Customer immediately if it considers in its opinion any of the Customer's instructions infringe the Data Protection Legislation;
- 13.3.9 notify the Customer immediately on becoming aware (and in any event within 24 hours of) any data security breach, or suspected data security breach relating to Personal Data;
- 13.3.10 permit the Customer or its external advisers to inspect and audit the Supplier's data processing activities and those of its agents, contractors, sub-contractors and consultants; and
- 13.3.11 not Process or otherwise transfer any Personal Data in or to any Restricted Country without the prior written consent of the Customer. Where the Supplier wishes to Process or transfer any Personal Data in or to any Restricted Country the following provisions shall apply:
 - (a) the Supplier shall make a written request to the Customer which shall set out the following details: the Personal Data which will be transferred to and/or Processed in the Restricted Country; the Restricted Country or Countries which the Personal data will be transferred to and/or Processed in; any sub-contractors or other third parties who will be Processing and/or receiving Personal Data in Restricted Countries;
 - (b) how the Supplier will ensure an adequate level of protection and adequate safeguards in respect of the Personal Data that will be Processed in and/or transferred to Restricted Countries so as to ensure the Customer's compliance with Data Protection Legislation, and

(c) the Customer shall in its sole discretion notify the Supplier as to whether it accepts or rejects the written request submitted in accordance with this clause 13.3.11(a);

13.4 Except as otherwise provided, the Agreement does not transfer ownership of, or create any licences (implied or otherwise), in any Intellectual Property Rights in any Personal Data.

13.5 The Supplier shall indemnify and keep indemnified the Customer from and against all Losses suffered or incurred by the Customer arising out of or in connection with claims and proceedings arising from any breach of the Supplier's obligations under this clause **Error! Reference source not found.**

14 Liability and Insurance

14.1 The Supplier shall not be responsible for any injury, loss, damage, cost or expense suffered by the Customer if and to the extent that it is caused by the negligence or wilful misconduct of the Customer or by breach by the Customer of its obligations under the Agreement.

14.2 Subject always to clauses **Error! Reference source not found.** and **Error! Reference source not found.:**

14.2.1 the aggregate liability of the Supplier in respect of all defaults, claims, losses or damages howsoever caused, whether arising from breach of the Agreement, the supply or failure to supply of the Services, misrepresentation (whether tortious or statutory), tort (including negligence), breach of statutory duty or otherwise shall in no event exceed a sum equal to 125% of the Charges paid or payable to the Supplier;

14.2.2 except in the case of claims for negligent damage or destruction of property caused by the Supplier, the Supplier's liability shall be limited to the amount of the Supplier's public liability insurance; and

14.2.3 except in the case of claims arising under clauses **Error! Reference source not found.**, **Error! Reference source not found.** and **Error! Reference source not found.**, in no event shall the Supplier be liable to the Customer for any:

- (a) loss of profits;
- (b) loss of business;
- (c) loss of revenue;
- (d) loss of or damage to goodwill;
- (e) loss of savings (whether anticipated or otherwise); and/or
- (f) any indirect, special or consequential loss or damage.

14.3 Nothing in the Agreement shall be construed to limit or exclude either Party's liability for:

14.3.1 death or personal injury caused by its negligence or that of its Staff;

14.3.2 fraud or fraudulent misrepresentation by it or that of its Staff;

14.3.3 wilful misconduct; or

14.3.4 any other matter which, by law, may not be excluded or limited.

14.4 The Supplier's liability under the indemnity in each of clause **Error! Reference source not found.**, **Error! Reference source not found.** and **Error! Reference source not found.** shall be unlimited.

- 14.5 If the Supplier is required to indemnify the Customer under clause **Error! Reference source not found.**, **Error! Reference source not found.** and **Error! Reference source not found.**, the Customer shall:
- 14.5.1 notify the Supplier in writing of any claim against it in respect of which it wishes to rely on the indemnity at clause **Error! Reference source not found.**, **Error! Reference source not found.** and **Error! Reference source not found.** (as applicable) ("Indemnity Claim");
 - 14.5.2 allow the Supplier, to conduct all negotiations and proceedings and to settle the Indemnity Claim, always provided that the Supplier shall obtain the Customer's prior approval of any settlement terms, such approval not to be unreasonably withheld;
 - 14.5.3 provide the Supplier with such reasonable assistance regarding the Indemnity Claim as is required by the Supplier, subject to reimbursement by the Supplier of the Customer's costs so incurred; and
 - 14.5.4 not, without prior consultation with the Supplier, make any admission relating to the Indemnity Claim or attempt to settle it, provided that the Supplier considers and defends any Indemnity Claim diligently, using competent counsel and in such a way as not to bring the reputation of the Customer into disrepute.
- 14.6 The Supplier undertakes to procure and maintain professional indemnity insurance of at least £500,000 for any one claim and public liability insurance of at least £2 million and employers liability insurance of at least £5 million in respect the Suppliers obligations under or in connection with the Agreement.

15 Force Majeure

Neither Party shall have any liability under or be deemed to be in breach of the Agreement for any delays or failures in performance of the Agreement which result from circumstances beyond the reasonable control of the Party affected. Each Party shall promptly notify the other Party in writing when such circumstances cause a delay or failure in performance and when they cease to do so. If such circumstances continue for a continuous period of more than two months, either Party may terminate the Agreement by written notice to the other Party.

16 Termination

- 16.1 The Customer may terminate the Agreement at any time by notice in writing to the Supplier to take effect on any date falling at least 1 month (or, if the Agreement is less than 3 months in duration, at least 10 Working Days) later than the date of service of the relevant notice.
- 16.2 Without prejudice to any other right or remedy it might have, the Customer may terminate the Agreement by written notice to the Supplier with immediate effect if the Supplier:
- 16.2.1 (without prejudice to clause **Error! Reference source not found.**), is in material breach of any obligation under the Agreement which is not capable of remedy;
 - 16.2.2 repeatedly breaches any of the Conditions of the Agreement in such a manner as to reasonably justify the opinion that its conduct is inconsistent with it having the intention or ability to give effect to the Conditions of the Agreement;
 - 16.2.3 is in material breach of any obligation which is capable of remedy, and that breach is not remedied within 30 days of the Supplier receiving notice specifying the breach and requiring it to be remedied;
 - 16.2.4 undergoes a change of control within the meaning of section 416 of the Income and Corporation Taxes Act 1988;
 - 16.2.5 breaches any of the provisions of clauses **Error! Reference source not found.**, **Error!**

- Reference source not found., Error! Reference source not found., Error! Reference source not found.** and 18;
- 16.2.6 the Supplier or the Supplier’s Staff commits an act, is involved in any activity or scandal that shocks or offends the community, which manifests contempt or disregard for public morals or decency or otherwise tends to bring itself into disrepute;
- 16.2.7 becomes insolvent, or if an order is made or a resolution is passed for the winding up of the Supplier (other than voluntarily for the purpose of solvent amalgamation or reconstruction), or if an administrator or administrative receiver is appointed in respect of the whole or any part of the Supplier’s assets or business, or if the Supplier makes any composition with its creditors or takes or suffers any similar or analogous action (to any of the actions detailed in this clause **Error! Reference source not found.**) in consequence of debt in any jurisdiction
- 16.2.8 has fraudulently misrepresented themselves on any information (whether in writing or orally) provided to the Customer or made a misleading or false declaration during the tender or quotation process.
- 16.3 The Supplier shall notify the Customer as soon as practicable of any change of control as referred to in clause **Error! Reference source not found.** or any potential such change of control.
- 16.4 The Supplier may terminate the Agreement by written notice to the Customer if the Customer has not paid any undisputed amounts within 60 days of them falling due.
- 16.5 Termination or expiry of the Agreement shall be without prejudice to the rights of either Party accrued prior to termination or expiry and shall not affect the continuing rights of the Parties under this clause and clauses 1, **Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found., Error! Reference source not found.** and **Error! Reference source not found., Error! Reference source not found.** and **Error! Reference source not found.** or any other provision of the Agreement that either expressly or by implication has effect after termination.
- 16.6 Upon termination or expiry of the Agreement, the Supplier shall:
- 16.6.1 give all reasonable assistance to the Customer and any incoming supplier of the Services; and
- 16.6.2 return all requested documents, information and data (including Confidential Information or destroy such Confidential Information at the Customer’s request) to the Customer as soon as reasonably practicable.
- 16.7 If the Supplier fails to comply with clause **Error! Reference source not found.**, then the Customer may enter the Supplier's premises and take possession of the requested documents, information and data. Until such documents, information and data have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with the Agreement.

17 Compliance

- 17.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Agreement. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer’s premises and which may affect the Supplier in the performance of its obligations

under the Agreement.

17.2 The Supplier shall:

17.2.1 comply with all the Customer's health and safety measures while on the Customer's premises; and

17.2.2 notify the Customer immediately in the event of any incident occurring in the performance of its obligations under the Agreement on the Customer's premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

17.3 In performing its obligations under this Agreement the Supplier shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes in force from time to time including, but not limited to, the Modern Slavery Act 2015.

18 Prevention of Fraud and Corruption

18.1 The Supplier acknowledges that as employees of a public body, EIS staff are required to observe the highest standards of probity and conduct in carrying out their duties. The Supplier shall not commit or agree to commit an act of Corruption with or for any person (including Authorised Representatives) an inducement or reward for doing, refraining from doing, or for having done or refrained from doing (including acting without impartiality, good faith or in breach of trust) any act in relation to the obtaining or execution of the Agreement or for showing or refraining from showing favour or disfavour to any person in relation to the Agreement.

18.2 The Supplier shall take all reasonable steps, in accordance with good industry practice, to prevent Corruption by the Staff and the Supplier (including its shareholders and members) in connection with the Agreement and shall notify the Customer immediately if it has reason to suspect that any Corruption has occurred or is occurring or is likely to occur. If the Supplier has reason to suspect that any Corruption has occurred or is occurring or is likely to occur amongst the Customer's staff, board members or representatives it shall notify the Customer immediately.

18.3 If the Supplier or the Staff engages in conduct prohibited by clause **Error! Reference source not found.** or commits Corruption in relation to the Agreement or any other contract with a Central Government Body the Customer may:

18.3.1 terminate the Agreement and recover from the Supplier the amount of any loss suffered by the Customer resulting from the termination, including the cost reasonably incurred by the Customer of making other arrangements for the supply of the Services and any additional expenditure incurred by the Customer throughout the remainder of the Agreement; or

18.3.2 recover in full, on an indemnity basis, from the Supplier any other loss sustained by the Customer in consequence of any breach of this clause.

19 Dispute Resolution

19.1 The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Agreement and such efforts shall involve the escalation of the dispute to an appropriately senior representative of each Party.

19.2 If the dispute cannot be resolved by the Parties within one month of being escalated as referred to in clause **Error! Reference source not found.**, the dispute may by agreement between the Parties be referred to a neutral adviser or mediator (the "Mediator") chosen by agreement between the Parties in accordance with the mediation procedure of Sport Resolutions (UK). All negotiations connected with the dispute shall be conducted in confidence and without prejudice to the rights of the Parties in any further proceedings.

19.3 If the Parties fail to appoint a Mediator within one month, or fail to enter into a written agreement resolving the dispute within one month of the Mediator being appointed, either Party may exercise any remedy it has under applicable law.

20 General

- 20.1 Each of the Parties represents and warrants to the other that it has full capacity and authority, and all necessary consents, licences and permissions to enter into and perform its obligations under the Agreement, and that the Agreement is executed by its duly authorised representative.
- 20.2 A person who is not a party to the Agreement shall have no right to enforce any of its provisions which, expressly or by implication, confer a benefit on him, without the prior written agreement of the Parties.
- 20.3 The Agreement cannot be varied except in writing signed by a duly authorised representative of both the Parties.
- 20.4 The Agreement contains the whole agreement between the Parties and supersedes and replaces any prior written or oral agreements, representations or understandings between them and expressly excludes any terms of business or terms & conditions attached or referenced to any purchase order or invoice over which the Conditions of the Agreement shall always prevail. The Parties confirm that they have not entered into the Agreement on the basis of any representation that is not expressly incorporated into the Agreement and for the avoidance of doubt the Suppliers representations, statements declarations made during any tender or quotation process are incorporated into the Agreement. Nothing in this clause shall exclude liability for fraud or fraudulent misrepresentation.
- 20.5 Any waiver or relaxation either partly, or wholly of any of the terms and conditions of the Agreement (including these Conditions) shall be valid only if it is communicated to the other Party in writing and expressly stated to be a waiver. A waiver of any right or remedy arising from a breach of contract shall not constitute a waiver of any right or remedy arising from any other breach of the Agreement.
- 20.6 The Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in the Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.
- 20.7 Except as otherwise expressly provided by the Agreement, all remedies available to either Party for breach of the Agreement (whether under the Agreement, statute or common law) are cumulative and may be exercised concurrently or separately, and the exercise of one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.
- 20.8 If any provision of the Agreement is prohibited by law or judged by a court to be unlawful, void or unenforceable, the provision shall, to the extent required, be severed from the Agreement and rendered ineffective as far as possible without modifying the remaining provisions of the Agreement, and shall not in any way affect any other circumstances of or the validity or enforcement of the Agreement.

21 Notices

- 21.1 Any notice to be given under the Agreement shall be in writing and may be served by personal delivery, first class recorded or, subject to clause **Error! Reference source not found.**, e-mail to the address of the relevant Party set out in the Award Letter, or such other address as that

Party may from time to time notify to the other Party in accordance with this clause:

21.2 Notices served as above shall be deemed served on the Working Day of delivery provided delivery is before 5.00pm on a Working Day. Otherwise delivery shall be deemed to occur on the next Working Day. An email shall be deemed delivered when sent unless an error message is received.

21.3 Notices under clauses **Error! Reference source not found.** (Force Majeure) and **Error! Reference source not found.** (Termination) may be served by email only if the original notice is then sent to the recipient by personal delivery or recorded delivery in the manner set out in clause **Error! Reference source not found.**

22 Governing Law and Jurisdiction

The Agreement, and any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with it or its subject matter or formation shall be governed by and construed in accordance with the law of England and Wales. Subject to clause **Error! Reference source not found.** each Party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim (including non-contractual disputes or claims) arising out of or in connection with the Agreement or its subject matter or formation

Annex 2 – Charges (Pricing Schedule from ITT to be included here)

Annex 3 – Specification from ITT to be included here

Annex 4 – Data Protection Particulars (where applicable) to be include here



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