



## **ATTACHMENT [XX] OF THE SPECIAL TERMS**

### **Electronic Preparation and Presentation of Evidence (EPPE)**

#### **CALL-OFF TERMS**

#### **SCHEDULE [xx]**

#### **CALL-OFF COOPERATION AGREEMENT**

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THIS AGREEMENT IS MADE ON XXXXXXXXXX 20[ ]

BETWEEN:

[ ] (the “**Authority**”);

[ ] a company incorporated in [ ] under registration number [ ], whose

[ ] a company incorporated in [ ] under registration number [ ], whose

[ ] a company incorporated in [ ] under registration number [ ], whose

[ ] a company incorporated in [ ] under registration number [ ], whose

[ ] a company incorporated in [ ] under registration number [ ], whose

together (the “**Suppliers**” and each of them a “**Supplier**”).

**WHEREAS:**

- A) the Authority and the Suppliers have entered into a Framework Agreement (defined below) for the provision of Electronic Preparation and Presentation of Evidence Services;
- B) the Authority now wishes to provide for the ongoing cooperation of the Suppliers in the provision of Services under their respective Framework Agreements to the Authority and Contracting Bodies;

In consideration of the mutual covenants contained in the Framework Agreement and this Agreement and intending to be legally bound, the parties agree as follows:

## 1. DEFINITIONS AND INTERPRETATION

1.1 As used in this Agreement, the capitalised expressions shall have the following meanings unless the context requires otherwise:

**“Agreement”** means this cooperation agreement, comprised of the Clauses and Schedules;

**“Authority”** means the Crown Prosecution Service;

**“Authority’s Confidential Information”** has the meaning set out in the Framework Agreement ;

**“Call-Off Agreement”** means a legally binding agreement (entered into pursuant to the provisions of this Framework Agreement) for the provision of the Goods and/or Services made between a Contracting Body and the Supplier pursuant to Framework Schedule 5 (Call Off Procedure);

**“Confidential Information”** means a Contracting Body’s Confidential Information and/or any Supplier’s Confidential Information;

**“Contracting Bodies”** means other organisations that obtain permission from the Authority to use the Framework Agreement and **“Contracting Body”** shall be construed accordingly ;

**“Cooperation Activities”** means the activities set out in this Agreement;

**“Cooperation Plan”** has the meaning given to it in Clause 4.1

**“Default”** means any breach of the obligations of any Supplier or any default, act, omission, negligence or statement of any Supplier , its employees, servants, agents or sub-suppliers in connection with or in relation to the subject matter of this Agreement and in respect of which such Supplier is liable (by way of indemnity or otherwise) to the other parties;

**“Dispute Resolution Procedure”** means the procedure described in Clause 12;

**“Effective Date”** means 1<sup>st</sup> July 2016;

**“Event”** has the meaning given to it in Clause 6.1;

**“Framework Agreement”** means the Framework arrangements established by the Authority for the provision of Goods and/or Services to Contracting Bodies by Suppliers that is let by the Authority to one of the Suppliers , as set out in Schedule 2;

**“Force Majeure Event”** has the meaning given to it in Clause 14.1.1;

**“Lot”** means any of the five (5) lots specified in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators) and "Lots" shall be construed accordingly;

**“Mediator”** has the meaning given to it in Clause 12.3.1;

**“Representatives”** means the individuals appointed under Clause 7;

**“Resolution Plan”** has the meaning given to it in Clause 6.5;

**“Resolution Proposals”** has the meaning given to it in Clause 6.2; and

**“Service”** means the services including any ancillary services as set out in Framework Schedule 2 (Goods and/or Services and Key Performance Indicators) which the Supplier shall make available to Contracting Bodies;

**“Supplier’s Confidential Information”** has the meaning set out in the Framework Agreement ;

**“Term”** has the meaning given to it in Clause 3.1.

## 1.2 General

### 1.2.1 As used in this Agreement:

1.2.1.1 the masculine includes the feminine and the neuter; and

1.2.1.2 the singular includes the plural and vice versa.

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

- 1.2.3 The parties shall comply with any express obligation in this Agreement to comply with any document, statute, enactment, order, regulation or other similar instrument that is referenced in this Agreement.
- 1.2.4 Headings are included in this Agreement for ease of reference only and shall not affect the interpretation or construction of this Agreement.
- 1.2.5 References to Clauses and Schedules are, unless otherwise provided, references to clauses of and schedules to this Agreement.
- 1.2.6 Except as otherwise expressly provided in this Agreement, all remedies available to any party under this Agreement are cumulative and may be exercised concurrently or separately and the exercise of any one remedy shall not exclude the exercise of any other remedy.
- 1.2.7 The party receiving the benefit of an indemnity under this Agreement shall use its reasonable endeavours to mitigate its loss covered by the indemnity.

## **2. RIGHTS OF CUSTOMERS**

- 2.1 The Authority has entered into this Agreement for itself and for the benefit of the Contracting Bodies.
- 2.2 The parties agree that the Authority shall have the right to:
  - 2.2.1 conduct all claims and disputes under this Agreement;
  - 2.2.2 enforce the terms, conditions, undertakings and other provisions of this Agreement for the benefit of itself and all Contracting Bodies; and/or
  - 2.2.3 recover losses suffered by any of the Contracting Bodies as if such losses were suffered or incurred by the Authority.

## **3. TERM OF THE AGREEMENT**

- 3.1 This Agreement shall come into force on the Effective Date and, unless earlier terminated in accordance with Clause 13, shall expire six (6) months after the expiry or termination (however arising) of the Framework Agreement (the “Term”).

#### **4. PROVISION OF A CO-OPERATION PLAN**

- 4.1 If a Contracting Body commissions a Service requiring Service elements from multiple Lots it may require the relevant Suppliers to submit a proposal; including the full details of the Co-operation activities and interfaces they require from each other (the Co-operation Plan) to ensure delivery of the Services under each Supplier's respective Call-Off Agreement. The Co-operation Plan shall be provided to the Contracting Body within two (2) weeks of the inception of the relevant Call-Off Agreement.
- 4.2 The Contracting Body shall, within ten (10) Working Days of receipt of the Co-operation Plan provide approval to proceed or request further information,
- 4.3 If the Contracting Body rejects the co-operation plan the Suppliers shall submit a revised plan within five (5) working days of notification by the Contracting Body.
- 4.4 If the parties fail to agree the Co-operation Plan in accordance with Clauses 4.4 and 4.5, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.

#### **5. COOPERATION ACTIVITIES**

- 5.1 The Suppliers shall perform the Co-operation Activities and all other obligations of this Agreement in accordance with the Co-operation Plan. The reasonable costs and expenses (if any) of the Suppliers and their respective sub-suppliers in carrying out their obligations may be reimbursed by the Contracting Body in accordance with its own expense limits.
- 5.2 The Suppliers shall provide all additional cooperation and assistance as is reasonably required by the Contracting Body to ensure the continuous delivery of the Services under the Framework Agreement.

#### **6. JOINT EVENT MANAGEMENT**

- 6.1 If a Supplier is prevented from or delayed in providing (in whole or in part) the services under a Call-Off Agreement due to a failure or breach by another Supplier ("an **Event**"), the Contracting Body shall be entitled (but not

required) to require the provisions of Clauses 6.2 to 6.11 (inclusive) to be followed by those Suppliers which the Contracting Body in its reasonable opinion considers relevant. Where the Event relates to a failure to comply with service level targets under a Call-Off Agreement and the Contracting Body has not required compliance with Clauses 6.2 to 6.11 (inclusive) because the Contracting Body does not regard such failure as material, the relevant Suppliers shall remedy such failure in accordance with their Framework Agreements. The process in this Clause 6 does not relieve the Supplier which is being prevented or delayed of any obligations it may have under its Framework Agreement, including any requiring it to mitigate or avoid the effect of the Event.

6.2 If, following an Event the Contracting Body requires compliance in accordance with Clause 6.1, the affected Suppliers shall prepare proposals in writing for the resolution of the Event and restoration of the Services (the “**Resolution Proposals**”) within two (2) Working Days (or such longer period as the affected Suppliers and the Contracting Body agree in writing) of the Event occurring. The Resolution Proposals shall contain, as a minimum:

6.2.1 detailed descriptions of the impact of the Event on the Services under each Call-Off Agreement ;

6.2.2 proposals for resolving the Event;

6.2.3 a timetable of activities required by all parties affected by the Event to resolve the Event; and

6.2.4 indicative costings for resolving the Event (such costings shall be reasonable and only relate to direct costs incurred by the affected party).

6.3 The affected Suppliers shall deliver the Resolution Proposals to the Contracting Body within three (3) Working Days or such shorter period as mutually agreed by the parties in writing (acting reasonably).

6.4 On receipt of the Resolution Proposals, the parties' Representatives shall meet (together with any sub-supplier's representatives as requested by the Contracting Body ) within no more than three (3) Working Days to discuss how best to resolve the Event and restore full provision of the Services under the



Call-Off Agreements to the Contracting Body.

- 6.5 Following the meeting specified in Clause 6.4 and in accordance with the timescales agreed during the meeting specified in Clause 6.4, the Suppliers shall prepare and deliver a joint final plan for the resolution of the Event (the "**Resolution Plan**") for approval by the Contracting Body .
- 6.6 The parties (and any sub-suppliers) shall perform the activities in accordance with the timetable specified in the Resolution Plan approved by the Contracting Body and all other obligations of this Agreement. None of the Suppliers shall be entitled to request or require any compensation or additional charges from each other until the satisfactory resolution (as determined by the Contracting Body acting reasonably) of the Event.
- 6.7 If a Supplier fails to comply with the provisions of the Resolution Plan approved by the Contracting Body (insofar as caused by the Default of the Contracting Body or other Suppliers), it shall, without prejudice to the parties' other rights and remedies, pay any reasonable additional costs and expenses of the other parties incurred as a direct result of such failure.
- 6.8 In the event of any dispute in relation to the Resolution Plan, such dispute shall be resolved in accordance with the Dispute Resolution Procedure.
- 6.9 Following resolution of the Event to the satisfaction of the Contracting Body, the parties' representatives shall meet (together with any sub-supplier's representatives as requested by the Contracting Body) within three (3) Working Days (or such shorter period as mutually agreed by the parties in writing (acting reasonably)) to discuss responsibility for the Event and to agree the charges payable (as referred to in this Clause 6) by each party. In particular the parties shall consider:
- 6.9.1 which party (or parties) were responsible for the Event; and
- 6.9.2 whether the parties (if any) who were not responsible for the Event are entitled to be compensated by the party responsible for the Event for losses resulting from the Event in accordance with Clause 6.10.
- 6.10 If, due to the Default of a Supplier (the "**First Supplier**"), any other Supplier(s) (the "**Other Supplier(s)**") is unable to provide or is delayed in providing the

services under a Call-Off Agreement, that First Supplier shall, without prejudice to the parties' other rights and remedies, compensate the Other Suppliers(s) for any reasonable additional costs and expenses incurred as a direct result of such Default to the extent that such costs and expenses were not also caused or contributed to by a Default of the other Supplier .

- 6.11 The parties shall use their reasonable endeavours to mitigate the impact of any Event.

## **7. REPRESENTATIVES OF THE PARTIES**

- 7.1 The parties shall each nominate a project/contract manager who shall be responsible for attending all discussions relating to this Agreement. The Suppliers shall not change or remove their respective Representatives without the Contracting Body's prior written consent, such consent not to be withheld or delayed if the following conditions are met:

7.1.1 a suitable replacement is found whose abilities, expertise and qualifications are similar to or in excess of those of the replaced individual; and

7.1.2 the Contracting Body shall be entitled, at its discretion, to interview and/or review the CV's of any proposed replacement Representative prior to giving such consent.

- 7.2 If, in the Contracting Body's reasonable opinion, a Representative is unsuitable for reasons of incompatibility with other Representatives, incompetence, unprofessional behaviour or similar circumstances, the Contracting Body may request that such an employee be removed from the performance of the Cooperation Activities. In this event, the employee shall be removed and replaced with a suitable replacement, such replacement to be approved by the Contracting Body (whose approval shall not be unreasonably withheld or delayed). The relevant Supplier shall indemnify the Contracting Body against any claim or liability that might arise in connection with this request.

## **8. INVOICING**

- 8.1 In the event that any sums are due under this Agreement, the Supplier responsible for paying such sum shall pay within thirty (30) Working Days of

receipt of a valid invoice.

- 8.2 Interest shall be payable on any late payments under this Agreement in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

## **9. CONFIDENTIALITY**

- 9.1 Without prejudice to the application of the Official Secrets Acts 1911 to 1989 to any Confidential Information, the Suppliers acknowledge that any Confidential Information obtained from or relating to the Crown, its servants or agents is the property of the Crown.

- 9.2 Each Supplier warrants that:

9.2.1 any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) shall only use Confidential Information for the purposes of this Agreement;

9.2.2 any person employed or engaged by it (in connection with this Agreement in the course of such employment or engagement) shall not disclose any Confidential Information to any third party without the prior written consent of the other party;

9.2.3 it shall take all necessary precautions to ensure that all Confidential Information is treated as confidential and not disclosed (save as aforesaid) or used other than for the purposes of this Agreement by its employees, servants, agents or sub-suppliers; and

9.2.4 neither it nor any person engaged by it, whether as a servant or a consultant or otherwise, shall use the Confidential Information for the solicitation of business from the other or from the other party's servants or consultants or otherwise.

- 9.3 The provisions of Clauses 9.1 and 9.2 shall not apply to any information which:

9.3.1 is or becomes public knowledge other than by breach of this Clause 9;  
or

9.3.2 is in the possession of the receiving party without restriction in relation to disclosure before the date of receipt from the disclosing party; or

- 9.3.3 is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; or
  - 9.3.4 is independently developed without access to the Confidential Information; or
  - 9.3.5 is required to be disclosed by law or by any judicial, arbitral, regulatory or other authority of competent jurisdiction.
- 9.4 The Contracting Body's right, obligations and liabilities in relation to using and disclosing any Supplier's Confidential Information provided under this Agreement and the Supplier's right, obligations and liabilities in relation to using and disclosing any of the Contracting Body's Confidential Information provided under this Agreement, shall be as set out in the relevant Framework Agreement .

## **10. WARRANTIES**

- 10.1 Each Supplier warrants and represents that:
- 10.1.1 it has full capacity and authority and all necessary consents (including but not limited to, where its procedures so require, the consent of its parent company) to enter into and to perform this Agreement and that this Agreement is executed by a duly authorised representative of the Supplier; and
  - 10.1.2 its obligations hereunder shall be performed by appropriately experienced, qualified and trained personnel with all due skill, care and diligence including but not limited to good industry practice and (without limiting the generality of this Clause 10) in accordance with its own established internal procedures.
- 10.2 Except as expressly stated in this Agreement, all warranties and conditions, whether express or implied by statute, common law or otherwise (including but not limited to fitness for purpose) are hereby excluded to the extent permitted by law.

## **11. LIMITATION OF LIABILITY**

- 11.1 None of the parties exclude or limit their liability for death or personal injury

resulting from negligence, or for any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982.

- 11.2 Nothing in this Agreement shall exclude or limit the liability of any party in respect of fraud or fraudulent misrepresentation.
- 11.3 Subject always to Clauses 11.1 and 11.2, the liability of the Contracting Body to any Suppliers for all claims (by way of indemnity or otherwise) arising whether in contract, tort (including negligence), misrepresentation (other than where made fraudulently), breach of statutory duty or otherwise under this Agreement (excluding Clause 9.4, which shall be subject to the limitations of liability set out in the relevant Framework Agreement) shall be limited to five thousand pounds sterling (£5,000).
- 11.4 Subject always to Clauses 11.1 and 11.2, the liability of each Supplier for all claims (by way of indemnity or otherwise) arising whether in contract, tort (including negligence), misrepresentation (other than where made fraudulently), breach of statutory duty or otherwise under this Agreement shall be limited to two hundred fifty thousand pounds sterling (£250,000) save that each of such Supplier's total liability under their respective Framework Agreements shall be subject to the financial limits set out in Clause 42.2.5 inclusive of any liability incurred under this Clause 11.4 of this Agreement.
- 11.5 Subject always to Clauses 11.1, 11.2 and 11.6 and except in respect of liability under Clause 9 (excluding Clause 9.4, which shall be subject to the limitations of liability set out in the relevant Framework Agreement), in no event shall any party be liable to any other for:
- 11.5.1 indirect loss or damage;
  - 11.5.2 special loss or damage;
  - 11.5.3 consequential loss or damage;
  - 11.5.4 loss of profits (whether direct or indirect);
  - 11.5.5 loss of turnover (whether direct or indirect);
  - 11.5.6 loss of business opportunities (whether direct or indirect); and/or

11.5.7 damage to goodwill (whether direct or indirect).

11.6 Subject always to Clauses 11.1 and 11.2, the provisions of Clause 11.5 shall not be taken as limiting the right of the Contracting Body to amongst other things, recover as a direct loss any:

11.6.1 additional operational and/or administrative costs and expenses arising from a Supplier's Default; and/or

11.6.2 wasted expenditure or charges rendered unnecessary and/or incurred by the Contracting Body arising from a Supplier's Default.

## **12. DISPUTE RESOLUTION PROCEDURE**

12.1 All disputes between any of the parties arising out of or relating to this Agreement shall be referred, by any party involved in the dispute, to the representatives of the parties specified in the Cooperation Plan.

12.2 If the dispute cannot be resolved by the parties' representatives nominated under Clause 12.1 within a maximum of five (5) Working Days (or such other time as otherwise agreed in writing by the parties) after it has been referred to them under Clause 12.1, then except where a party seeks urgent injunctive relief, the parties shall refer it to mediation pursuant to the procedure set out in Clause 12.3 unless the Contracting Body considers (acting reasonably and considering any objections to mediation raised by the other parties) that the dispute is not suitable for resolution by mediation.

12.3 The procedure for mediation and consequential provisions relating to mediation are as follows:

12.3.1 a neutral adviser or mediator (the "**Mediator**") shall be chosen by agreement between the parties or, if they are unable to agree upon a Mediator within ten (10) Working Days after a request by one party to the other parties to appoint a Mediator or if the Mediator agreed upon is unable or unwilling to act, any party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to the parties that he is unable or unwilling to act, apply to the Chairman of the Law Society to appoint a Mediator;

- 12.3.2 the parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held;
- 12.3.3 unless otherwise agreed by the parties in writing, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings;
- 12.3.4 if the parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the parties once it is signed by their duly authorised representatives;
- 12.3.5 failing agreement, any of the parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to this Agreement without the prior written consent of all the parties; and
- 12.3.6 if the parties fail to reach agreement in the structured negotiations within twenty (20) Working Days of the Mediator being appointed, or such longer period as may be agreed by the parties, then any dispute or difference between them may be referred to the courts.
- 12.4 The parties must continue to perform their respective obligations under this Agreement and under their respective Call-Off Agreements pending the resolution of a dispute.

### **13. TERMINATION AND CONSEQUENCES OF TERMINATION**

#### **13.1 Termination**

- 13.1.1 The Authority has the right to terminate this Agreement at any time by notice in writing to the Suppliers whenever the Authority has the right to terminate a Supplier's respective Framework Agreement .
- 13.1.2 Failure by any of the Suppliers to comply with their obligations under this Agreement shall constitute a Default under their relevant

Framework Agreement. In this case, the Authority also has the right to terminate by notice in writing the participation of any Supplier to this Agreement and sever its name from the list of Suppliers, so that this Agreement will continue to operate between the Authority and the remaining Suppliers .

## 13.2 Consequences of Termination

13.2.1 Subject to any other right or remedy of the parties, the Suppliers and the Authority shall continue to comply with their respective obligations under the Framework Agreement following the termination (however arising) of this Agreement:

13.2.2 Except as expressly provided in this Agreement, termination of this Agreement shall be without prejudice to any accrued rights and obligations under this Agreement.

## 14. GENERAL PROVISIONS

### 14.1 Force Majeure

14.1.1 For the purposes of this Agreement, the expression “**Force Majeure Event**” shall mean any cause affecting the performance by a party of its obligations under this Agreement arising from acts, events, omissions, happenings or non-happenings beyond its reasonable control, including acts of God, riots, war or armed conflict, acts of terrorism, acts of government, local government or Regulatory Bodies, fire, flood, storm or earthquake, or disaster but excluding any industrial dispute relating to any party, the party's personnel or any other failure of a sub-supplier.

14.1.2 Subject to the remaining provisions of this Clause 14.1, any party to this Agreement may claim relief from liability for non-performance of its obligations to the extent this is due to a Force Majeure Event.

14.1.3 A party cannot claim relief if the Force Majeure Event or its level of exposure to such event is attributable to its wilful act, neglect or failure to take reasonable precautions against the relevant Force Majeure Event.



14.1.4 An affected party cannot claim relief as a result of a failure or delay by any other person in the performance of that other person's obligations under a contract with the affected party (unless that other person is itself prevented from or delayed in complying with its obligations as a result of a Force Majeure Event).

14.1.5 The affected party shall immediately give the other parties written notice of the Force Majeure Event. The notification shall include details of the Force Majeure Event together with evidence of its effect on the obligations of the affected party, and any action the affected party proposes to take to mitigate its effect.

14.1.6 A Force Majeure Event shall be considered an Event for the purposes of this Agreement and the parties shall comply with their respective obligations under Clause 6.

14.1.7 The affected party shall notify the other parties in writing as soon as practicable after the Force Majeure Event ceases or no longer causes the affected party to be unable to comply with its obligations under this Agreement. Following such notification, this Agreement shall continue to be performed on the terms existing immediately before the occurrence of the Force Majeure Event unless agreed otherwise in writing by the parties.

## 14.2 Assignment and Subcontracting

14.2.1 Subject to Clause 14.2.2, the Suppliers shall not assign, sub-license or declare a trust in respect of its rights under all or a part of this Agreement or the benefit or advantage hereof without the consent of the Authority first being obtained in writing.

14.2.2 Any sub-suppliers identified in the Co-operation Plan and/or any Resolution Plan are permitted to perform those elements identified in the Co-operation Plan or Resolution Plan to be performed by such sub-suppliers .

## 14.3 Notices

14.3.1 Any notices given under or in relation to this Agreement shall be deemed to have been properly delivered if sent by recorded or registered post or by fax and shall be deemed for the purposes of this Agreement to have been given or made at the time the letter would, in the ordinary course of post, be delivered or at the time shown on the sender's fax transmission report.

14.3.2 For the purposes of Clause 14.3.1, the address of each of the parties shall be those specified in the Framework Agreement .

#### 14.4 Entire Agreement

14.4.1 This Agreement, together with the documents and agreements referred to in it, constitutes the entire agreement and understanding between the parties in respect of the matters dealt with in it and supersedes, any previous agreement between the Parties in relation to such matters.

14.4.2 Each of the parties acknowledges and agrees that in entering into this Agreement and the documents and agreements referred to in it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Agreement. The only remedy available to each party in respect of any such statements, representation, warranty or understanding shall be for breach of contract under the terms of this Agreement.

14.4.3 Nothing in this Clause 14.4 shall operate to exclude any liability for fraud.

#### 14.5 Rights of Third Parties

14.5.1 Save as provided in Clause 14.5.2, nothing in this Agreement shall be deemed to grant any right or benefit to any person other than the parties or their respective successors in title or assignees, or entitle a third party to enforce any provision hereof and the parties do not intend that any term of this Agreement should be enforceable by a third party by virtue of the Contracts (Rights of Third Parties) Act 1999.

14.5.2 The Authority may enforce Clause 5.2 on behalf of the Contracting Bodies pursuant to the Contracts (Rights of Third Parties) Act 1999.

#### 14.6 Severability

If any provision of this Agreement is held invalid, illegal or unenforceable for any reason by any court of competent jurisdiction, such provision shall be severed without effect to the remaining provisions. If a provision of this Agreement that is fundamental to the accomplishment of the purpose of this Agreement is held to any extent to be invalid, the Parties shall immediately commence good faith negotiations to remedy that invalidity.

#### 14.7 Variations

No purported amendment or variation of this Agreement or any provision of this Agreement shall be effective unless it is made in writing by the parties.

#### 14.8 No waiver

The failure to exercise, or delay in exercising, a right, power or remedy provided by this Agreement or by law shall not constitute a waiver of that right, power or remedy. If a party waives a breach of any provision of this Agreement this shall not operate as a waiver of a subsequent breach of that provision, or as a waiver of a breach of any other provision.

#### 14.9 Governing Law and Jurisdiction

This Agreement shall be governed by and construed in accordance with English law and without prejudice to the Dispute Resolution Procedure, each party agrees to submit to the exclusive jurisdiction of the courts of England and Wales.

**EXECUTED AND DELIVERED** as an agreement by the parties or their duly authorised attorneys the day and year first above written.

**FOR AND ON BEHALF OF THE AUTHORITY**

Signed by:

Full name (capitals):

Position:

Date:

FOR AND ON **BEHALF** OF [ ]

Signed by:

Full name (capitals):

Position:

Date:

FOR AND ON **BEHALF** OF [ ]

Signed by:

Full name (capitals):

Position:

Date:

FOR AND ON **BEHALF** OF [ ]

Signed by:

Full name (capitals):

Position:

Date:

FOR AND ON **BEHALF** OF [ ]

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Full name (capitals): .....

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Date:

FOR AND ON **BEHALF** OF [ ]

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Date:

FOR AND ON **BEHALF** OF [ ]

Signed by:

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Date: