## IWM Logo_Turquoise

#### **Tender Documentation**

**Contract No.**

**IWM/ICT/1360**

###### Telephone Maintenance Agreement

## Tender Submission Return Date:

**2pm on 5 November 2015**

**Schedule 1 – Contract Conditions**

1.0 **Introduction to the Imperial War Museum**

1.1 IWM (Imperial War Museums) is operated by the Trustees of the Imperial War Museum, a charitable corporation established by statute.

 Founded in 1917 to record the story of the Great War and the contributions to it made by the peoples of the Empire, IWM is now the world’s leading authority on conflict and its impact, **telling the story of people who have lived, fought and died in conflicts involving Britain and the Commonwealth** from the First World War to the present day.

Our unique Collections, made up of the everyday and the exceptional, reveal stories of people, places, ideas and events across our five museums. We challenge people to look at conflict from different perspectives, enriching their understanding of the causes, course and consequences of war and its impact on people’s lives.

IWM’s five branches are:

* IWM London;
* Churchill War Rooms;
* HMS *Belfast* moored in the Pool of London;
* IWM Duxford, Cambridge;
* IWM North, Trafford, Manchester.

Each Branch provides a comprehensive range of permanent and temporary exhibitions consisting of exhibits from the permanent collections integrated with audiovisual interactive displays.

IWM is, in addition to its conventional museum role, a major national art gallery, a major national archive of written and audio-visual records, and a research centre. Our activities include display, education, publishing, research, trading, conferences, as well as the acquisition, documentation, study and conservation of collections.

1.2 IWM is a non–departmental public body (NDPB) overseen by a Board of Trustees and its Chairman. Its sponsor department is the Department of Culture, Media & Sport (DCMS).

1.3 Further information about IWM and all of our branches can be obtained from our website on [www.iwm.org.uk](http://www.iwm.org.uk).

1.4 IWM is an exempt charity under the terms of the Charities Act 1993 Schedule 2 (u) and (w). As such we do not have a Charity Registration No.

2.0 **Contract Requirements**

2.1 This Contract is to appoint a single service provider to undertake maintenance of the telephone switches across the five IWM Sites as listed as Schedule 8, and also to undertake additional services on each network as defined by IWM, during the Contract Period.

2.2 At each Site the Contractor is required to provide costs for the provision of a Premier Level of service support, inclusive of Software Assurance Plus.

2.3 A full list of the Equipment located at each Site to be covered under this Maintenance Agreement is shown at Appendix 1.

2.4 The Contractor will also be required to work with IWM on enabling the full functionality of the telephone systems, based upon the outline programme and subject to confirmation, as listed in Section 2 of Schedule 2. This is not an exhaustive list and IWM reserve the right to amend/review the scope of these Additional Services.

3.0 **Contract Term**

3.1 The Contract is to commence on **1 February 2016**, and is to run for an Initial Period of three years to **31 January 2019**, with the option to extend by one additional year, to run following completion of the Initial Period.

3.2 In agreeing to provide these Services, the Contractor agrees that the Contract will automatically terminate at the end of the Initial Period, or the extended date if the Contract is extended, and IWM will not be required to issue any letters of contract termination.

4.0 **Contract Management**

4.1 The Contract will be managed at IWM by Andrew Lee, the Corporate Telecoms Manager (see Schedule 7 for his contact information). He will act as the main contact on all aspects of the contract requirements, and must be kept fully informed on any issues with the delivery of the maintenance and associated services.

4.2 The Contractor will be required to ensure that they publish quarterly performance reports to the Corporate Telecoms Manager, outlining the maintenance service provided against the performance targets under the Standard or Premier Level service agreement, any progress on the implementation of additional services, and to discuss ways to improve IWM’s use of the network. The Contractor is to make themselves available to meet with the Corporate Telecoms Manager, following the publication of this report if this is deemed applicable.

5.0 **Invoicing/Payment**

5.1 Invoices for the maintenance of the switches are to be submitted on a quarterly basis.

5.2 For additional services, the payment/invoice terms are to agreed on an individual basis between IWM and the Contractor, although payment will always be in arrears of work completed.

5.3 All invoices are to be forwarded directly to:

Department of Finance

IWM London

Lambeth Road

London

SE1 6HZ

5.4 All invoices are to be paid within 30 days of their receipt.

**Schedule 2 - Specification**

**Section 1 – Support Contract**

1.0 For avoidance of doubt, the Premier Level service requirement and Software Assurance means:

* the provision of service 7 days per week, during office hours 9.00 to 18.00, inclusive of all Bank/Public Holidays, excluding Christmas Day and Boxing Day;
* a 4-hour response to major faults, and a 16-hour response to minor faults is required.

1.2 Major faults are categorised as:

1. any fault which causes degradation of service to more than 10% of the users at the affected location, or;
2. any fault which affects users at more than one location, e.g. loss of a link.

1.3 Minor faults are categorised as:

1. any fault affecting a limited area causing degradation of service to less than 10% of users at that location, or;
2. isolated problems affecting individual users, but not causing serious degradation of service.

1.4 Certain faults on the network affecting specific offices or users may be deemed critical and therefore need to be categorised as “Major Faults” irrespective of the type of fault which may occur. IWM in consultation with the Contractor will identify those offices and users which will be so categorised when possible.

1.5 However from time to time faults may occur which for operational reasons will be deemed to be “Major Faults” by the caller.

1.6 Software Assurance means the Mitel software support subscription.

2.0 **Section 2 – Additional Services**

 The potential additional services required of the Contractor include:

* Video Conferencing – ongoing pilot scheme using Microsoft Lync and Mitel Live Business Gateway – scope for expansion on this, so future work upgrading software etc.
* Expand numbers of VOIP telephones across all sites, goal to have all VOIP sites. Prices for licences (user/device and voicemail) plus Mitel IP handsets like 5324,5330, 5340 being standard ones at present.

**Schedule 3 – Tender Information**

Tenderers are requested to include all of the following information within their tender submission. Failure to submit any information may result in your tender being rejected.

1.0 **Costs**

1.1 Tenderers are required to submit their annual support service costs to cover each site as listed in Schedule 8, for both Standard and Premier Services, and their overall costs for all sites.

1.2 The costs submitted must be fixed for the Initial Period.

1.3 In addition to standardising telephone maintenance with one provider, IWM is also seeking to obtain efficiency benefits, inclusive of cost discounts. Tenderers are asked to indicate the percentage savings offered.

1.4 To provide outline costs associated with the provision of the additional services requirement as described within Section 2 of Schedule 2.

2.0 **Additional Services**

 Tenderers are required to provide an outline of how they would proceed with the provision of the Additional Services as stated within Section 2 of Schedule 2. This is to cover such issues as:

* management of the requirement (if different to the standard account management);
* procedures to ensure that IWM is kept fully informed of progress;
* identification on any major risks associated with the delivery, the level of risk and methods of mitigation. This should be inclusive of risk to the overall telephone service.

3.0 **Reporting**

 Tenderers are required to advise on how they will provide the appropriate reporting information requested as part of this Contract. If available, please include within your tender, samples of the standard reports which could be provided.

4.0 **Contract Management**

 Tenderers are to advise on their proposed account management procedures for this Contract. This is to identify if this resource covers all sites indicated.

5.0 **Coverage/Sub-Contracting**

 The appointment is based upon IWM appointing one provider to deliver the switch maintenance services to all of the sites of IWM as identified. Tenderers are required to confirm that they are able to deliver such services, and if they have to sub-contract the service at any of these sites, to identify their proposed service partner, and the extent of their relationship with this partner.

6.0 **Questionnaire**

 Tenderers are required to complete the Questionnaire (Schedule 4) and supply all the associated documentation.

7.0 **Contract Award Criteria**

 Tenders will be assessed on the following criteria:

* Costs (**5**)
* Contract Management/ Delivery of Additional Services (**4**)
* References/Financial/Questionnaire (**3**)

The figure in brackets is the weighting allocated to each criteria. Each criteria will be marked out of 4.

8.0 **Tender Return**

 Tenders must be returned by **14.00 on 5 November 2015**:

Simon Bourne

Head of Procurement & Compliance

Imperial War Museums

Lambeth Road

London

SE1 6HZ

 Please ensure that **2 hard copies** and **1 electronic copy on memory stick** of the tender are submitted. One copy is to include your audited accounts as requested, and this copy is to be clearly identified.

#### **Schedule 4 - Questionnaire**

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| **COMPANY QUESTIONNAIRE – Telephone Maintenance Contract** |
| All information supplied will be treated as strictly private and confidential and will not be divulged to any other parties other than those directly involved in the project. |
|  |
| **Section 1 – General Company Information** |
| 1 Name of Company: |
| 2 Registered Office Address: |
| 3 Company Registration Number: |
| 4 Year of Registration: |
| 5 Telephone No: |
| 6 E-mail Address: |
| 7 Nature of Business and Range of Services: |
| 8 Please indicate, if applicable, any subsidiary companies run by your company: |
| 9 If part of a group, please indicate the details of the ultimate holding company: |
| 10 VAT Registration No: |
| 11 Address of Office to support the Contract: |
| 12 Please illustrate diagrammatically, the structure of your company, showing the inter-relationships with other members of the group, and how the management of this contract fits into the company’s management structure: |
| **Section 2: Staffing/Management** |
| 13 Please identify the number of staff employed. Please indicate numbers of full-time and part-time staff:* Director(s):
* Managers:
* Technical:
* Administration:
* Operations:
 |
| 14 Annual Staff Turnover (in percentage format): |
| 15 Name of Employee responsible for the management of the Contract: |
| 16 Please submit your project team structure for the delivery & management of the Contract |
| 17 Please identify whether you plan to use any sub-contractors to deliver any services within the Contract. If so, please:* identify those services that would be undertaken by the sub-contractor(s)?;
* the name of any nominated sub-contractor(s)?, and;
* your methodology of appointment and management of the sub-contractor(s)?
 |
| **Section 3: Financial/Banking** |
| 18 Please attach one copy of your last **three years** of audited accounts. This **must** include both your Profit & Loss Accounts and your Balance Sheets. |
| 19 If part of a group of companies, please attach one copy of their last three years of audited accounts. Again, to include Profit & Loss accounts and Balance Sheets. |
| **Section 4: Policy/Procedures** |
| 20 If you are registered under BS5750/ISO 9000 or any other scheme, please provide a copy of your registration certificate and a summary of your Quality Management (QM) procedures. |
| 21 Please provide copies of the following policies:* your **outline** health & safety policy
* your **outline** environmental policy, inclusive of your sustainability policy
* your equal opportunities policy
* your training policy
* your diversity policy
 |
| 22 Please complete the following with regards to your company’s insurance policies: **Third Party Liability (to £2m)**:  Policy No: Expiry Date: Limit of Indemnity: **Professional Liability (to £5m)**: Policy No: Expiry Date: Limit of Indemnity: Please include a copy of the insurance certificate for each policy. |
| 23 Have you been prosecuted under any relevant health & safety legislation in the last five years? If the answer is Yes, please provide details of the incidence and the outcome. |
| 24 Have you been prosecuted under any relevant employment legislation in the last five years? If the answer is Yes, please provide details of the incidence and the outcome. |
| 25 Do you have a Business Continuity Plan (BCP), or equivalently titled document? If so;* what are the key risks and what are the control mechanisms in place?;
* how often and to what extent is the BCP tested?;
* how is the BCP managed and reviewed by your Board of Directors?
 |
| 26 Please provide a statement of assurance that you are committed to counter bribery, and please advise of any cases or convictions for bribery made against the company?  |
| **Section 5 - References** |
| 27 Please provide summaries (no more than two sides per project) of similar current or recent projects where you have provided similar services |

**Schedule 5 – Terms & Conditions of Contract**

**CONTRACT**

(1) Imperial War Museum, Lambeth Road, London SE1 6HZ, United Kingdom. (“**IWM**”); and

(2) xxxxx, whose registered office is at (Registered in England under number) (“the Contractor”)

(To hereby be collectively referred to as “**the Parties**” and individually as “**a Party**”).

IWM requires certain maintenance services and sale of certain goods and The Contractor has agreed to provide such maintenance services and sale of such goods to IWM on the terms and subject to the conditions of this Agreement.

**IT IS AGREED** as follows:

**1 Definitions**

1.1 The following words have the following meaning:

* **“The Agreement”** means these terms and conditions, its Schedules, Attachments and purchase orders.
* **“Equipment”** means any Equipment supplied by the Contractor to IWM
* **“Line Rental”** means rental of IWM’s ISDN or Analogue line(s)
* **“Maintenance” or “Maintenance Services”** means the support services as specified in Schedule 1.
* **“Minimum Term”** means the minimum term specified in clause 3 of these terms and conditions.
* **“MLU Access”** means the automatic insertion of the unique access code by a unit provided by the Contractor.
* **“Owner”** means The Contractor.
* **“Service Commencement Date”** means the agreed date on which that particular Service is due to commence as specified in the relevant Schedule.
* **“Site”** means the place of business at which the Services and Equipment is to be provided as specified in this Agreement and updated by IWM from time to time.
* **“Software”** means any computer programme that was on the Equipment when supplied by the Contractor or that IWM received separately from the Contractor.

1.2 Headings are inserted for ease of reference only and do not affect the interpretation of this Agreement.

**SALES AND MAINTENANCE AGREEMENT**

**2 Charges and Payment for Sale of Equipment**

The Contractor will invoice IWM for the Equipment purchased by IWM. The payment term shall be 30 days from date of invoice. The Contractor will ensure the invoice lists at a minimum the Equipment purchased, the relevant quantities purchased, the unit price in Pound Sterling, total invoice amount in Pounds Sterling, the invoice date and IWM’s purchase order number. Failure to provide any or all of these items on the invoice may result in a delay in payment by IWM. The Contractor agrees to reissue the invoice with all required elements and acknowledges that the payment term will start from the date of the updated invoice. Clause 25 below will apply to late payment.

**3 Start Date and Period of Maintenance**

The period of maintenance will start on the Service Commencement Date as specified in this Agreement. It will continue for the Minimum Term of 24 **months** with an option to extend by one additional year, to run following completion of the initial contract period. The Contract will automatically terminate at the end of the initial period or at the extended date if the Contract is extended.

**4 Maintenance Payment Terms**

The Contractor will invoice IWM in advance for each applicable maintenance period in accordance with this Agreement. The payment term shall be 30 days from date of invoice. The Contractor will ensure the invoice lists at a minimum a description of the maintenance services purchased, total invoice amount in Pounds Sterling, the invoice date and IWM’s purchase order number. Failure to provide any or all of these items on the invoice may result in a delay in payment by IWM. The Contractor agrees to reissue the invoice with all required elements and acknowledges that the payment term will start from the date of the updated invoice. Clause 25 below will apply to late payment.

5 **Quality and Reliability**

If requested within the manufacturer’s warranty period, The Contractor will replace faulty items free of charge with a new identical model or an alternative item of similar or higher specification and at the minimum similar capabilities. If the Equipment is out of warranty, The Contractor will provide maintenance in accordance with this Agreement provided the Equipment is covered in this Schedule. In all other cases, The Contractor will notify IWM and propose an alternative remedy including costs of this remedy to IWM. It is at IWMs option to accept, negotiate or decline the proposed remedy.

**6 Servicing & Exclusions**

6.1 Throughout the term of the Agreement the Contractor shall ensure that the performance of IWM Equipment, and the Equipment and the servicing meet the approved standard of the manufacturer including but not limited to the following point and in accordance with the maintenance specification in this Agreement.

(a) telephone technical support for maintenance

(b) an engineer’s visit to the Site

(c) service of the central control unit and all components within it

(d) service of Voicemail – auto attendant hardware

6.2 The Contractor will endeavour to respond to reported faults within the level of service taken by IWM and specified in this Agreement but at no time will a failure by The Contractor to do so be construed as a material breach of the Agreement.

6.3 Maintenance will not cover the following:

(a) failure due to changes to or disconnection from the approved system carried out by IWM without written agreement from the Contractor

(b) failure of any supplies or connected services not supplied or installed by the Contractor

(c) changes in the environment made by IWM without written agreement from the Contractor

(d) ancillary items including but not limited to answer phones, call loggers, payphones, public address systems, printers, external music on hold sources, system cabling and consumables unless otherwise agreed in writing by the Contractor to IWM

(e) a force majeure event as defined in the Agreement

**7 Connections**

(a) If the Equipment is to be connected to the BT Network or other outside services, it is IWM’s responsibility to arrange for provision of any required circuits.

(b) IWM must pay all costs for circuit rentals, connection charges, inspections, commissioning and any other costs necessary to provide the services in clause (a).

(c) The Contractor shall not be responsible for any delays in the provision of services referred to in clause (a). Any such delay will not give IWM the right to refuse installation of the Equipment or payment due to us.

**8 Acceptance**

After The Contractor has installed the Equipment at the Site, our engineer will confirm to IWM that the Equipment is working satisfactorily by, at IWM’s discretion, either demonstrating functionality to IWM or by allowing IWM to carry out certain tests. IWM will sign an acceptance document that will serve as proof of acceptance of that particular installation. Any warranties for the Equipment from the manufacturer will be passed to IWM for as long as the manufacturer has specified but for a minimum of 30 days. The Contractor will remain responsible for the installation work and will accept maintenance requests for this installation within the terms and specifications of this Agreement.

**9 Annual Price Increases**

IWM cannot dispute a price increase if the increase has resulted from additions made to the system provided that the per unit price remains unchanged or is lower than the agreed per unit price.

**GENERAL PROVISIONS**

**10 Sites**

10.1 IWM will prepare the Site(s) in accordance with the Contractor’s instructions so that any necessary Equipment can be installed. The Contractor will provide these instructions at least seven (7) business days before the planned installation date. If the Contractor fails to provide these instructions in time, the Contractor will reschedule the work to the date requested by IWM at no additional costs to IWM. IWM will meet the costs of preparing the Site(s).

10.2 IWM will provide adequate electricity supply and suitable earth connection for the operation of any Equipment to be installed at the Site(s) and, in the case of MLU Access, a designated carrier network test and termination point. The Contractor will provide detailed instructions that will allow IWM to make such preparations at least seven (7) days before the planned installation date. If The Contractor fails to provide these instructions in time, The Contractor will reschedule the work to the date requested by IWM at no additional costs to IWM.

10.3 IWM will provide reasonable assistance and co-operation to The Contractor to enable The Contractor to carry out its obligations under the Agreement including giving access to the Site(s) to install and maintain the Equipment as instructed by The Contractor.

10.4 The Contractor will normally carry out installation and maintenance work during normal working hours but may, on reasonable notice, require IWM to provide access at other times. At IWM's request, The Contractor may agree to work outside normal working hours but IWM shall be liable for paying to The Contractor any overtime charges for relevant staff provided the work is not covered under the maintenance service as specified in this Agreement.

**11 Installation**

11.1 If applicable, the Contractor will install the Equipment at the agreed Site so that the Maintenance Services can be provided on or before the agreed Service Commencement Date as specified in this Agreement. The Contractor will use reasonable effort to meet the installation date. If The Contractor is not able to meet the agreed installation date, it will notify IWM in writing at least seven (7) business days before the agreed installation date. Failure to provide such notice will entitle IWM to a 10% discount on the agreed installation cost. The Contractor will provide IWM with an alternative installation date that shall be within seven (7) business days of the cancelled installation date.

11.2 Should IWM prevent the Contractor from delivering or installing the Equipment for any reason and fail to provide the Contractor with a written notice seven (7) business days prior to the agreed installation date, The Contractor reserves the right to charge the agreed installation costs to IWM.

11.3 The Contractor and IWM will work together, within the confines of the site, to mutually agree on the routing of cables and wires and the positioning of outlets and Equipment, taking into consideration the technical and safety aspects of the installation.

**12 Provision of Maintenance Services**

12.1 The Contractor will provide the Services at the Site(s) from the Service Commencement Date until the Maintenance Services are cancelled or the Agreement expires or is terminated in accordance with the Agreement.

12.2 The Contractor will make all reasonable efforts to provide the Services in a reliable manner and in accordance with good industry practice but cannot be held responsible for any fault or loss of Service arising as a result of incorrect information given to the Contractor by IWM.

12.3 IWM will notify the Contractor as soon as it becomes aware of any fault in either IWM Equipment, or the Equipment, and the Contractor will provide support to IWM to correct the fault as specified in this Agreement. If The Contractor provides Maintenance Services to IWM for the resolution of a fault but it is subsequently discovered that the fault lies with IWM Equipment, the Equipment or the services provided by the Contractor then IWM shall pay the Contractor for the resolution of the fault on a time and materials basis at the Contractor current rates..

**13 Equipment**

13.1 Ownership of the Equipment shall remain with The Contractor until it is paid for in full by IWM. Until that time IWM will hold it as The Contractor’s fiduciary agent. IWM will keep the Equipment properly stored, protected, insured and identified as The Contractor‘s property. IWM is not permitted to sell the Equipment and The Contractor can insist on its return provided IWM has not paid the relevant invoice in accordance with the payment terms in this Agreement and giving thirty (30) days written notice.

13.2 IWM will not allow access to the system by a third party without The Contractor’s written consent.

13.3 The Contractor will maintain the Equipment as per the terms of the Agreement.

**14 Suspension of Services**

14.1 The Contractor may, without terminating this Agreement, suspend the Services if any of the following apply, provided The Contractor has given IWM at least seven (7) business days written notice:

(a) The Contractor reasonably believes or is advised it is necessary because of significant technical problems or work on the network or for reasons of safety.

(b) The Contractor believes it is necessary to prevent fraud taking place.

(c) The Contractor is obliged to comply with an order, instruction or request of Government or persons purporting to act with Governmental authority, an emergency service organisation, or other competent administrative authority.

(d) IWM has not paid an invoice for more than three (3) months without good reason.

14.2 IWM acknowledges and agrees that in exceptional circumstances it may not be possible for The Contractor to provide notice of the suspension within the agreed timelines. The Contractor will use best efforts taking account of the circumstances to provide IWM with as much notice of the suspension and to maintain the suspension for as short a period as is reasonably possible

14.3 If suspension occurs for technical reasons or to prevent fraud and that suspension lasts for more than 24 hours, IWM will receive a pro-rata credit against the monthly access charge for the period of the suspension.

14.4 If the suspension lasts for more than seven (7) days, IWM has the right to terminate the Agreement giving seven (7) days written notice to The Contractor. The Contractor agrees to handover the service and all required technical knowledge to the new supplier as chosen by IWM without delay or additional costs to IWM.

**15 Termination**

15.1 Without prejudice to any other rights or remedies under the Agreement or at law, either Party may terminate this Agreement or cancel the Maintenance Services at any Site immediately by serving written notice on the other Party if:

(a) a Party becomes insolvent or is subject to a court winding up order; or

(b) a Party commits a breach of any material obligation under this Agreement and (in the case of a remediable breach) fails to remedy the breach within fourteen (14) days of receiving written notice to do so from the other Party;

(c) a Party violates the other Party’s Intellectual Property Rights.

15.2 Either Party may terminate this Agreement or any part thereof at any time by serving a sixty (60) day written notice to the other Party.

**16 Upon Termination**

16.1 Upon termination of the entire Agreement or any part thereof for any reason except The Contractor’s material breach, all amounts relevant to the terminated part of the Agreement and owed by IWM to The Contractor shall become immediately due and payable in full on demand and IWM will:

(a) immediately stop using the Maintenance Service that has been terminated;

(b) immediately stop using any Equipment included in the terminated part of the Agreement provided this Equipment is owned by The Contractor, and

(c) permit The Contractor to enter the Site(s) during normal business hours to remove the Equipment. IWM’s obligations in respect of the Equipment will continue to apply until the Contractor has removed the Equipment.

(d) receive a pro-rata refund on any outstanding quarterly service charges due at the date of termination.

16.2 Upon termination of the entire Agreement or any part thereof for any reason of The Contractor’s breach, The Contractor will:

(a) handover the service and all required technical knowledge to the new supplier as chosen by IWM without delay or additional costs to IWM

(b) undertake best effort to prevent any service disruption to IWM

16.3 Obligations in the Agreement that by their nature are continuing will survive termination of the Agreement.

**17 Limitation of Liability**

17.1 The Parties shall not be liable to the other except as expressly set out in the clauses below.

17.2 Unless otherwise expressly stated, either Party’s liability in contract, tort or otherwise including any liability for negligence howsoever arising out of or in connection with the performance of either Party’s obligations under the Agreement is limited to 125% of the annual Maintenance Services fees as specified in the Schedule(s) of this Agreement

17.3 Without prejudice to IWM’s obligations to pay The Contractor the charges for any Equipment or Maintenance Services, the Parties shall not be liable to the other Party under the Agreement in contract, tort (including negligence) or otherwise for any loss of revenue, business, contracts, anticipated savings or profits.

17.4 Nothing in this Agreement excludes or restricts either Party’s liability:

(a) for death or personal injury resulting from that Party’s negligence or its employee’s negligence while acting in the course of their employment; or

(b) for anything else for which the parties cannot at law limit or exclude their liability.

17.5 The provisions of this Clause continue to apply despite the termination or expiry of the Agreement.

**18 Force Majeure**

18.1 Neither Party will be obliged to carry out any obligation under the Agreement where performance of such obligation is prevented due to any cause beyond the Party's reasonable control, including but not limited to any act of God, severe weather, failure or shortage of power supplies, flood, drought, lightning or fire, the act or omission of Government, highways authorities, other telecommunications operators or administrations or other competent authority, war, military operations, or riot, or difficulty, delay or failure in manufacture, production or supply by third parties of either the Equipment or Services or both resulting from the same or a similar type of force majeure event

18.2 If any force majeure event lasts for more than one (1) month from the date of its commencement and that event prevents either Party from performing all or a material part of its obligations during that period either Party may by giving fourteen (14) days written notice to the other Party terminate the Agreement.

**19 Information and Confidentiality**

19.1 IWM will promptly provide The Contractor (free of charge) with any information The Contractor may reasonably require to enable it to proceed with the performance of its obligations under the Agreement.

19.2 Unless expressly agreed in writing neither IWM nor The Contractor will use, copy, adapt, alter or part with possession of any information that is disclosed or otherwise comes into its possession under or in relation to the Agreement and which is of a confidential nature unless required to do so by a court order or legislation. This obligation will not apply to information which the recipient can prove was in its possession at the date it was received or which the recipient obtains from some other person with good legal title to it or which is in the public domain otherwise than through the default or negligence of the recipient.

19.3 IWM acknowledges that The Contractor may use information regarding calls routed through the Equipment including but not limited to origin, destination, duration, route and time, provided it requires this information to meet its obligations under this agreement.

19.4 Both parties must comply with the Data Protection Act 1998 and subsequent amendments when dealing with information given to the other Party under the Agreement.

19.5 The Contractor shall take every precaution to ensure that information about the Agreement, or arising from or connected with the Agreement, is divulged only to the minimum number of employees and then only to the extent essential to each person's action in carrying out the Agreement. No information regarding the Services being provided under the Agreement or facilities to photograph or film shall be given or permitted by The Contractor except with the written permission of IWM to whom any press or other enquiry or other such matter should be referred. Except with the consent in writing of IWM, The Contractor shall not make use of the Agreement or any information issued or furnished by or on behalf of IWM otherwise than for the purpose of the Agreement.

**20 Intellectual Property Rights**

Intellectual Property Rights in all documents, drawings and information including if applicable any access codes supplied to IWM in connection with the Agreement remain vested in The Contractor or the intellectual property right owner. Such documents, drawings and information are confidential and will not be copied, disclosed or used (except for the purpose for which they were supplied) without The Contractor’s prior written consent.

**21** **Indemnification.**

IWM agrees to promptly notify The Contractor in writing of any claim made against IWM for: (a) copyright, patent, trade secret or other intellectual property rights violation relating to the Software; or (b) bodily injury, death or damage to tangible property, excluding damage to software or data, arising solely from actions for which The Contractor is legally responsible .IWM further agrees to allow The Contractor to control the litigation or settlement of any such claim and to cooperate with The Contractor in the investigation, defence and settlement thereof. Provided IWM complies with this Section, The Contractor shall indemnify IWM for such claim by paying for the costs and attorneys’ fees IWM incurs at the Contractor’s direction and any judgment finally awarded against WM or settlement approved by the Contractor.

IWM may participate at IWM's own expense. If such claim in (a) above is made or, in The Contractor' opinion, is likely to be made, then The Contractor, at its option, may: (1) modify the Equipment or services; (2) obtain rights for IWM to continue using the Equipment or services; or (3) request IWM to return the Equipment and/or cease using the services and refund the amounts paid for such Equipment and/or services

**22 Non-Waiver and Severability**

22.1 Failure by either Party to enforce any of its rights under the Agreement is not to be taken as or deemed to be a waiver of that right unless the waiving Party acknowledges the waiver in writing.

22.2 Part or all of any clause of the Agreement that is unenforceable or illegal will be severed from the Agreement and will not affect the enforceability of the remaining provisions of the Agreement.

**23 Fraud**

The Contractor shall not be responsible for call charges resulting from fraudulent use of the Equipment or Services by IWM or any third parties and IWM agrees to pay all additional charges related to such fraud.

**24 Value Added Tax**

All sums due to The Contractor under the Agreement are exclusive of Value Added Tax and any other applicable taxes which may from time to time be introduced, which shall be charged in accordance with the relevant regulations in force at the time of making the taxable supply and must be paid by IWM.

**25 Late Payment**

In respect of all amounts invoiced under the agreement IWM will pay interest at a rate of 2% over the Bank of England Base Lending Rate applicable at the time per month on all overdue amounts from the date payment is due until IWM has paid in full. If payment should not be received within three (3) months from the date payment is due, The Contractor will be entitled terminate this agreement in accordance with clause 15 and 16 of this Agreement.

**26 IWM’s Obligations Under The Agreement**

26.1 IWM will not use or allow others to use the Equipment or Maintenance Services provided for any improper, immoral or unlawful purpose. If The Contractor incurs any liability to any person or any expense arising from such use, IWM will promptly reimburse such amounts to The Contractor.

26.2 IWM will report to The Contractor as soon as it becomes aware of any fraud, deception, or unauthorised or unlawful use relating to the Equipment or Maintenance Services.

26.3 IWM will advise The Contractor in writing if it changes its address.

26.4 IWM will undertake reasonable efforts to comply with all reasonable instructions given to it by The Contractor and provide The Contractor with all information required to comply with its obligations under the Agreement.

**27 Contractor’s Obligations Under The Agreement**

27.1 The Contractor will advise IWM in writing if it changes its address.

27.2 The Contractor shall use its reasonable endeavours to provide the Maintenance Services in accordance with this Agreement.

27.3 The Contractor will take reasonable measures to ensure the Consultants comply with the same regulations that apply to IWM’s employees.

**28 Other Standard Terms**

28.1 The Agreement is the entire Agreement between IWM and the Contractor.

28.2 The Agreement applies to all items of IWM Equipment and the Equipment individually. If any item fails, it will not affect the rights and liabilities of either Party for the other items.

28.3 IWM’s duties under the Agreement will continue and will not be affected by the breakdown, theft, loss, destruction of, or damage to any Equipment.

28.4 Notices under the Agreement must be made in writing and delivered by hand or sent by post to the other Party’s address. The address will be the one stated in the Agreement, the registered office (for a limited company) The notice will be taken to have been delivered on the date it was delivered by hand or 24 hours after the date it was posted.

28.5 The Contractor reserves the right to assign, sub-contract or otherwise deal with all or any of its rights and obligations arising under the Agreement after written agreement from IWM. IWM may not assign this Agreement without having first received written authority from The Contractor, such authority not to be unreasonably withheld.

28.6 The Agreement and invoices arising under it are the complete and exclusive statement relating to the subject matter hereof. Modifications must be in writing, signed by both parties, and specifically reference the Agreement. Additional or different terms on current or future contracts or third party purchasing documents are expressly objected to and rejected..

28.7 The unenforceability of any term of the Agreement will not affect the enforceability of any other terms.

28.8 No person or body who is not a Party to the Agreement has any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of the Agreement.

28.9 The Agreement is governed by English law and disputes will be subject to the exclusive jurisdiction of the English Courts.

**29 Freedom of Information Act 2000**

29.1 IWM is subject to the provisions of the Freedom of Information Act 2000 (“**FoIA**”). FoIA obliges IWM to release certain information to third parties upon written request, unless subject to one of the exemptions under FoIA.

29.2 The Parties agree that all information pertaining to the Agreement shall be released to third parties upon request.

29.3 Under the terms of FoIA, IWM may be ordered by the Information Commissioner to release information to a third party,

**Schedule 6 - Tender Timetable**

# Action Date

Issue Tenders 16 October 2015

Tender Return Date 14.00 – 5 November 2015

Tender Evaluation/Bid Clarification wc 9 November 2015

Confirm Appointment 16 November 2015

Contract Drafting November 2015

**Contract Start Date 1 February 2016**

# Schedule 7 – IWM Contract Selection Personnel

The following staff at IWM are responsible for the tender and the award of the contract

* **Andrew Lee,** Corporate Telecoms Manager, Imperial War Museums, Lambeth Road, London SE1 6HZ T: 020 7416 5256 E: alee@iwm.org.uk
* **Simon Bourne**, Head of Procurement & Compliance, Imperial War Museums, Lambeth Road, London SE1 6HZ T: 020 7416 5257 E: sbourne@iwm.org.uk

**Schedule 8 – Sites of IWM**

The switches at the following sites are covered under this Agreement:

**Imperial War Museum London**

Lambeth Road

London

SE1 6HZ

**Imperial War Museum Duxford**

Duxford

Cambridgeshire

CB22 4QR

**Churchill War Rooms**

Clive Steps
King Charles Street
London

SW1A 2AQ

**Imperial War Museum North**

The Quays
Trafford Wharf Road
Trafford Park
Manchester

M17 1TZ

**HMS *Belfast***Tooley Street
London

SE1 2JH

**Appendix 1 – Site Equipment**

The following represents the Equipment Specification at each Site covered by this Contract.

May 2012

Software update done to MCD 5, replaces main functions of Enterprise / Ops Manager. Details from off 3300’s : Release level: 5.0 SP1 PR1, Active software load: 11.0.1.26, Inactive: 10.0.4.14 – this applies to all six\* IWM Mitel 3300’s.

MAS Server also installed in May 2012 for IWM London only : 1 x MAS virtual Nupoint voicemail Base package to include Call Director, 12 x mailboxes\* / user licences, 10 x Application Ports – replaces in built auto attendant set up for this site. Has Software Assurance.

**IWM London**

The switch is a Mitel 3300-Mxe S/W 9.0.2.18 – see May 2012 MCD upgrade

Mitel 6010 Teleworking Solution S/W 4.5

Mitel Enterprise / Ops Manager S/W 6.0.2.5 – see May 2012 MCD upgrade

This includes:

3 Mitel Peripheral Node II

4 Mitel DNIC Line Card (CR)

4 Mitel 4150 TAPI (D/Grey)

1 Mitel MW404AA RJ45 to 2 x BNC Cable

1 Mitel 2 Pack Hard Drive FRU

1 Mitel E1 Embedded Module

1 Mitel RAID Controller

1 Mitel 10 Managed System Licence

3 Mitel MN3300 Dual Firm Module

467 Mitel 3300 – Device / user licence / 356 used as of 12/10/15

390 Mitel 3300 – 1 Mailbox Licence Voicemail Embedded : now 390 purchased, 390 consumed

1 Mitel Teleworker 1 year support

21 Mitel On Premises Line cards

2 Mitel 5550 IP Console

1 Mitel Redundant Power Supply

1 Mitel 6010 Teleworking Solution

1 Mitel 3300 Digital Link Lic

1 Mitel Mxe Controller

1 Mitel Enterprise Manager 1.0

7 Mitel IP Desktop/Wireless Licence

36 Mitel 5224 IP Phone Dual Module

2 Mitel 5304 IP phones

85 Mitel 5324 IP Phone Dual Module

7 Mitel 5330 IP Phone Dual Module

1 Mitel LS/GS Trunk Card

30 Mitel SS 4025 Dark Grey

1 Mitel 3300 UK Power Cord-Single

1 Management Access Point (Remote)

1 Mitel 3300 Quad DSP

1 Mitel Advanced Voicemail

1 Mitel Teleworker Sol50 client access licence

1 Mitel 3300 Software Pkg #6

1. Mitel 3300 Compression Licence (8)

Software Assurance on

1 Mitel 1400 Device Assurance

1 Mitel Teleworker Assurance

1 Mitel Ent Manager Assurance

**Churchill War Rooms**

The switch is a Mitel 3300-Mxe S/W 9.0.1.17 – see May 2012 MCD upgrade

Software Assurance as well

This includes:

51 Mitel 52001251 IP Desktop/Wireless Licence, 47 used, 51 purchased

50 Mitel 54000297 3300-1 Mailbox Licence 33 used, 50 purchased

1 Mitel 50005612 3000 UK Power Cord-Single

1 Mitel 50005084 Redundant Power Supply

1 Management Access Point (remote)

1 Mitel 50005452 2 Pack Hard Drive FRU

1 Mitel 50003560 E1 Embedded Module

1 Mitel 54000860 Advanced Voicemail

1 Mitel 50005086 RAID Controller

1 Mitel 54002533 Software Package 1

1 Mitel 50005080 Mxe Controller

1 Mitel 54000540 3300 IP network licence

40 Mitel 50004894 5224 IP Phone Dual Module

5 Mitel 5330 IP Phone Dual Module

1 Mitel 54002722 Device Assurance

**IWM North**

The switch is a Mitel 3300-Mxe S/W 9.0.1.17 – see May 2012 MCD upgrade

Software Assurance as well

This includes:

1 Mitel Peripheral Node II

1 Mitel DNIC Line Card (CR)

1 Mitel MW404AA RJ45 to 2 x BNC Cable

1 Mitel 2 Pack Hard Drive FRU

1 Mitel E1 Embedded Module

1 Mitel RAID Controller

3 Mitel MN3300 Dual Firm Module

7 Mitel On Premises Card (ONS)

1 Mitel 5550 IP Console

1 Mitel Redundant Power Supply

1 Mitel 3300 Digital Link Lic

66 Mitel IP Desktop/Wireless Licence 50 used, 66 purchased

8 Mitel 5224 IP Phone Dual Module

1 Mitel 5212 IP Phone Dual Module

33 Mitel 5324 IP Phone Dual Module

1 Mitel 3300 UK Power Cord-Single

1 Management Access Point (Remote)

1 Mitel Advanced Voicemail

1 Mitel 3300 Software Pkg #6

70 Mitel 3300 – 1 Mailbox Licence 53 used, 70 purchased

8 Mitel MW200AB 10m TJF Cable

1 Mitel Perph SW Controller

1 Mitel 3300 Mxe 11 Controller

1 Mitel Power Converter

**HMS *Belfast***

The switch is a Mitel 3300-MXe S/W 10.0.3.14 \_1 MCD 4.0 SP3 (was upgraded from 100 User Controller in June 2010) – see May 2012 MCD upgrade

June 2010 upgrade added 3300 MXe Controller, 3300 MXe RAID Sub system, AC Power Supply,

MXe 80G 2 PK Hard Drive.

Software Assurance as well

This includes:

3 Mitel DNIC Line Card (CR)

47 Mitel 3300 – 1 Device / User Licence 25 used, 47 purchased

2 Mitel 5324 IP Phone Dual Module

5 Mitel 5330 IP Phone Dual Module

1 Mitel 3300 Digital Link Lic

25 Mitel SS 4025 Dark Grey

1 Mitel 3300 Quad DSP

1 Mitel Advanced Voicemail

50 Mitel 3300 – 1 Mailbox Licence 27 used, 50 purchased

1 Mitel BRI NSU (UK) (Not in use)

1 Mitel 510 Box Conf 1+0

1 Mitel ONS Clip POS Discon

1 Mitel Per node 19” 240v ac uk

2 Mitel PWR CRD M2F 3C5A

5 Mitel 6600 Your Assist 2.0 (never used)

1 Mitel 7100 M/ment Access

1 Mitel 3300 4.1 Base software

1 Mitel 3300 IP network licence

2 Mitel Universal NSU T1/E1

6 Mitel ISS1 NT1 ISDN2 Term Blis

1 Mitel 3300 ICP Patch Panel

1 Mitel 3300 100 User Controller

3 Mitel 3300 Compression Licence (8)

8 Mitel SS 4015 Dark - UK

**IWM Duxford**

The switch is a Mitel 3300-MXe S/W 10.03.14\_1 MCD 4.0 SP3 (was upgraded from LX Controller in June 2010) – see May 2012 MCD upgrade

June 2010 upgrade added 3300 MXe Controller, 3300 MXe RAID Sub system, AC Power Supply,

MXe 80G 2 PK Hard Drive

Software Assurance as well

This includes:

2 Mitel MC330AB DNIC Line Card (CR)

1 Mitel 54000303 3300 Digital Link Lic

32 Mitel 9132025202BA SS 4025 Dark Grey

1 Mitel 54000860 Advanced Voicemail

266 Mitel 54000297 3300 – 1 Mailbox Licence 181 used, 266 purchased

1 Mitel 54000303 3300 Digital Link Lic

95 Mitel 52001251 IP Desktop/Wireless Licence 84 used, 95 purchased

9 Mitel MC320CL ONS Clip POS Discon

1 Mitel 50004204 Per node III 240v ac uk

1 Mitel 51001152 SX2000 Miracel Rack 37u

1 Mitel 51004471 5 Way Power Strip

1 Mitel PWR CRD M2F 3C5A

1 Mitel WBCPO236 Harness

1 Mitel 50001248 MN3300 Dual Fim Module

1 Mitel 50003560 E1 Embedded Module

1 Mitel 50001147 5550 IP Console

54 Mitel 50004890 5212 IP Phone Dual Mode

54 Mitel 51009841 Gigabit Ethernet Stand (these now mainly in use at IWM London)

2 Mitel PD-6548/AC/M

2 Mitel 6600 Your Assist 2.0 (never used)

1 Mitel 7100 M/ment Access

1 Mitel 54000540 3300 IP network licence

**Walnut Tree Walk : Please note, this site is not part of the contract for information only**

The switch is a Mitel 3300-Mxe S/W 9.0.2.18 – see May 2012 MCD upgrade

Software Assurance as well

This includes:

55 Mitel 52001251 IP Desktop/Wireless Licence 34 used, 60 purchased

43 Mitel 54000297 3300-1 Mailbox Licence 25 used, 43 purchased

1 Mitel 50005612 3000 UK Power Cord-Single

1 Mitel 50005084 Redundant Power Supply

1 Management Access Point (remote)

1 Mitel 50005452 2 Pack Hard Drive FRU

1 Mitel 50003560 E1 Embedded Module

1 Mitel 54000860 Advanced Voicemail

1 Mitel 50005086 RAID Controller

1 Mitel 54002533 Software Package 1

1 Mitel 50005080 Mxe Controller

1 Mitel 54000540 3300 IP network licence

40 Mitel 50004894 5224 IP Phone Dual Module

Note: The licences and IP phones off the Walnut Tree Walk site have now been reused at the five other IWM sites covered by this contract, with the Mitel 3300 main controller box being kept by IWM for hot spares if needed.