QUOTATION DOCUMENT

|  |  |
| --- | --- |
| Framework Agreement Title | Provision of Short Films |
| Framework Agreement Reference | HLF FINANCE 192 |
| Name:  Tel:  Email: | Jim Crisp  02075916232  [Jim.crisp@hlf.org.uk](mailto:Jim.crisp@hlf.org.uk) |
| Date/Time for Quotation Return | 20 04 2017  12:00 noon |

National Heritage memorial Fund (the “Fund”)

7 Holbein Place

London

SW1W 8NR

[www.hlf.org.uk](http://www.hlf.org.uk)

CONTENTS

|  |  |  |
| --- | --- | --- |
|  | QUOTATION INFORMATION |  |
|  |  |  |
|  | Guidance for Suppliers |  |
| 1 | Introduction |  |
| 2 | Requirements |  |
| 3 | Indicative Timetable |  |
| 4 | Selection and Evaluation |  |
|  |  |  |
|  | QUOTATION RESPONSE |  |
|  |  |  |
|  | SELECTION CRITERIA |  |
|  |  |  |
|  | STAGE 1 – GENERAL INFORMATION |  |
| 1 | Company Information |  |
| 2 | Insurances |  |
| 3 | References |  |
|  |  |  |
|  | STAGE 2 – PREVIOUS EXPERIENCE |  |
| 1 | Questions |  |
|  |  |  |
|  | EVALUATION CRITERIA |  |
|  |  |  |
|  | STAGE 3 - QUALITY |  |
| 1 | Quality Responses |  |
|  |  |  |
|  | STAGE 4 – PRICE SUMMARY |  |
| 1 | Pricing |  |
| 2 | Payment by BACS |  |
|  |  |  |
|  | APPENDICIES |  |
| Appendix A  Appendix B | Pricing Summary (as separate file)  Expenses Schedule |  |
| Appendix C | National Heritage Memorial Fund Standard Terms and Conditions |  |
|  |  |  |
|  |  |  |

IMPORTANT NOTE

Guidance for Suppliers

You are invited to submit a quotation document and complete our quotation template (below) and the Framework Agreement - Short Films (as attached) as detailed below in accordance with the Fund's standard terms and conditions and those terms set out in the Framework Agreement, (for clarity the Terms and Condition of the Framework Agreement take precedence should a conflict of terms arise).

Your tender response must be returned no later than the time and date set out on the cover page.

Suppliers are advised to ensure that they are fully familiar with the nature and extent of the contract. It is the responsibility of the Supplier to obtain for themselves, at their own expense, all information necessary for the preparation of their quotation.

1. Quotations must be submitted for the entire service as detailed below; quotations for only part of the service may be rejected.
2. The Fund may at its own absolute discretion extend the closing date and time specified for the receipt of quotations, or invite variations to the terms of the contract.
3. The Fund will evaluate this Quotation based on 60% Quality and 40% Price as described overleaf.
4. The Fund does not bind itself to accept the lowest or any quotation and reserves the right to accept a quotation either in whole or part for the goods and services specified.
5. All prices shall in all cases be exclusive of VAT, which will be applied in accordance with legislation. Discounts, trade allowances of any kind must be shown separately.
6. The Framework Agreement will be for a period of 3 years and will commence from 01/ 06/ 2017 until 31/ 05/ 2020, with the option to extend for a further 2 years
7. Suppliers that require clarification on the content or how to comply or complete this Framework Agreement/ Quotation documentation (question boxes and or Excel spreadsheet) please contact the Fund’s Procurement Manager Jim Crisp at [jim.crisp@hlf.org.uk](mailto:jim.crisp@hlf.org.uk)
8. Introduction

The Fund requires a professional film making company, with experience in the Heritage and/ or voluntary sectors.

We envisage that the Fund makes as many as 6 – 12 short films per annum and we are looking to setup a Framework Agreement from which to draw. The work may include working within sensitive historic/ natural environments and, on occasion, working with individuals with special needs, as well as with professionals from heritage or other grantee organisations.

The Framework Agreement will be renewed on an annual basis but the Framework Agreement Period is for 3 years depending on previous performance including the ability of the Supplier to deliver a professional result on time and to budget.

1. Requirements/Specification

As a specific requirement the Supplier will be required to obtain Model Release forms and or written permission from each person and for each location to ensure that the Fund has the IPR rights to images and content on film and the Fund is able to use any images or content in the film as it sees fit.

1. Indicative Timetable

|  |  |
| --- | --- |
| Phase | Date |
| Advertised on: -  <https://www.gov.uk/contracts-finder>  &  <https://www.hlf.org.uk/about-us/corporate-information/transparency/contracts> | 21.03.2017 |
| Deadline for Submission | 20.04.2017 |
| Evaluation Date | 24.04.2017 |
| Anticipated Award Date | 15.05.2017 |
| Standstill Period 10 days |  |
| Anticipated Framework Agreement Commencement Date | 01.06.2017 |

1. Selection and Evaluation
   1. The evaluation of this quotation will be based on a **pass/fail** basis with a Value Assessment approach that enables the Fund to assess a quotation on Quality (60%) and Price (40%). The assessment of Quality will consider written information provided by the quotation Supplier in relation to the specific requirements as set out in the quotation documents. All relevant evidence submitted will be assessed/merit rated against pre-determined criteria.
   2. The scoring system to be applied to the assessment of the quotations proposals will be as follows:

|  |  |  |
| --- | --- | --- |
| Score | Performance | Judgement |
| 4 | Response is relevant and good. The response is more comprehensive and detailed than Acceptable and there is a quantifiable financial benefit to selecting over Acceptable | Excellent |
| 3 | Response is relevant and good. The response is sufficiently detailed to demonstrate a good understanding and provides details on how the requirements will be fulfilled, but there is no cost benefit over an Acceptable level Score | Good |
| 2 | Response is relevant and acceptable. The response addresses a broad understanding of the requirement & shows sufficient details on how the requirement will be fulfilled. | Acceptable |
| 1 | Response is partially relevant but generally poor. The response addresses some elements of the requirement but contains insufficient/limited detail or explanation to demonstrate how the requirement will be fulfilled. | Fail Unacceptable |
| 0 | Nil or inadequate response. Fails to demonstrate an ability to meet the requirement. | Fail Unacceptable |
|  | Clarification may be required from scores of 2 and above. |  |

* 1. The breakdown of the assessment stages are shown in the tables below:

|  |  |  |  |
| --- | --- | --- | --- |
| SELECTION CRITERIA | | EVALUATION CRITERIA | |
| Stage 1 | Stage 2 | Stage 3 | Stage 4 |
| General Information | Previous Experience | Quality Response | Price Summary |
| Pass/Fail | | 60% | 40% |

Selection Criteria

4.4 Stage 1 – General Information

**Supplier MUST have provided the following General Information to PASS this Risk Criteria & be eligible to contract under this Framework Agreement**

|  |  |
| --- | --- |
| **Risk Criteria Pass/ Fail** | **Required Criteria**  **Pass / Fail** |
| **Provided Professional Indemnity Insurance £1m** | **R** |
| **Provided Public Liability Insurance £5m** | **R** |
| **Proven Experience** | **R** |
| **Provided Set of Accounts** | **R** |
| **Established in Profession more than a year** | **R** |
| **Signed National Heritage Memorial Fund’s Terms & Conditions** | **R** |
| **R = Requirement & is a requirement of the Framework Agreement** |  |

* 1. Stage 2 – Previous Experience

Suppliers will be asked to demonstrate their previous experience which will enable them to deliver the requirements of the Framework Agreement effectively. This will be evaluated on a Pass / Fail basis.

Evaluation Criteria

* 1. Stage 3 – Quality Response

|  |  |  |
| --- | --- | --- |
| **Quality Criteria** | **Section Weighting %** | **Question Weighting** |
| **Niche Experience & Proven Capability** | **20%** |  |
| Describe your process from Brief, Concept, Story Board |  | 10% |
| Detail other Corporate films made in last 2 years |  | 5% |
| Detail other Heritage or voluntary sector type features produced |  | 5% |
| **Production** | **20%** |  |
| Describe the anticipated Production Process |  | 10% |
| Demonstrate your formats and latest technical equipment specifications |  | 10% |
| **Innovation, Creativity & Staff Experience** | **20%** |  |
| Describe your creative process & provide examples of ideas turned in to films (supply links if appropriate) |  | 20% |
| **Production Staff Experience** | **15%** |  |
| Detail staff that would be engaged under this Framework Agreement & provide their C.V.’s |  | 5% |
| Provide 5 relevant examples of detailed Staffs’ recent work |  | 10% |
| Detail your geographical limitations (UK/ South/ London, etc.) |  | 0% |
| **Client Services** | **20%** |  |
| Explain how you work with the client to agree and approve the work plan/ production schedules and agree final edits and assets |  | 20% |
| **Archive & Asset Management Process** | **5%** |  |
| Detail how you archive & manage digital assets |  | 5% |

* 1. Quality Assessment

Quality will account for 60% of the quotation evaluation. The quality assessment will be carried out on the quality questions/ method statements. The Fund will score Quality in accordance with the table set out in 4.2 above. A max score of 4 will achieve a 100% rate x the set weighting whereas a score of 2 would achieve a 50% rate x the set weighting. Increments are set at 0.1.

Each Fund staff Evaluator (maximum of 3 Evaluators per project) will score independently. Subsequently a Moderator team will review and address any rogue scoring between Evaluators.

Firms who score 2 or more in the quality marks may be invited to attend a clarification interview in order to discuss points included in the written proposals. The points discussed may result in scores being adjusted either up or down.

Where a response to any question is given a score of nil, (0), the tender may be discounted in its entirety and take no further part in the process.

* 1. Stage 4 – Price Summary

|  |  |
| --- | --- |
| Price Criteria 40% | Sub-Weighting |
| A Business & Fulltime Employee Costs (with breakdown) | Equal Total 100% |
| Overheads/ Office |  |
| Camera man |  |
| Sound man |  |
| Editor |  |
| Project Manager/ Producer |  |
| Assistant |  |
| Runner |  |
| B Costs Per Hour of Non-Fulltime Employees & Costs for  Filming & Production |  |
| Post Production |  |
| Camera man |  |
| Sound man |  |
| Editor |  |
| Project Manager |  |
| Assistant |  |
| Runner |  |
| C  Anticipated production Costs based on filming & production of a 3-minute film at a local Heritage site, including two interviews and three vox pops with members of the public on site. Allow for finished film & additional short “vine” for social media use |  |
| Brief & Concept |  |
| Story Board & Set up |  |
| Filming & Interviewing |  |
| Editing & post Production, including accessible subtitles as needed |  |
| Project Management/ Production & client liaison |  |
| External Costs Identified |  |

* 1. Price Assessment

Price assessment accounts for 40% of the quotation evaluation. After rejecting bids which in the opinion of the Fund are unrealistically high or low (in terms of Price), the lowest price will be given 100%. Other quotation prices will then be expressed as a proportion of the lowest price. This gives the adjusted price score. The 40% weighting for Price is then applied to each adjusted Price score to give the weighted price scores.

4.10 Overall Assessment

The Weighted Quality Score and Price Score for each quotation will be added to produce a total score. The scores for each quotation will be compared and (Subject to a final risk assessment) the quotation Suppliers with the highest score offering the most economically advantageous bid will be recommended for acceptance.

4.11 Transparency

Suppliers should be aware that, should they be awarded a Contract, the content of the Framework Agreement may be published by the Fund to the general public in line with transparency requirements.

Before publishing any information the Fund will consult with the supplier on any potential exemptions that may be applicable. The Supplier should note that the final decision on what information is published will rest will with the Fund.

QUOTATION RESPONSE

FOR

FRAMEWORK AGREEMENT - SHORT FILMS

Supplier Name: FRAMEWORK AGREEMENT

|  |  |
| --- | --- |
| Date/Time for Quotation Return | 20.04.2017  12:00 noon |

**YELLOW AREAS REQUIRE COMPLETION**

STAGE 1 – GENERAL INFORMATION (PASS / FAIL)

1. Company Information

|  |  |
| --- | --- |
| Name of Organisation |  |
| Trading Name of Applicant |  |
| Address of Registered Office | Address 1 |
| Address 2 |
| Address 3 |
| City/Town |
| Country |
| Postcode |  |
| Company Registration No. (if applicable) |  |
| Date of Registration |  |
| Certificate of Incorporation, and all certificates of change of name issued by the Company Registrar  (Or include reasons if not applicable) | □ Yes  □ No |
| Is the applicant a consortium joint venture or other arrangement? If so, please provide details of the constitution | □ Yes  □ No |
| Contact Name for enquiries about this application |  |
| Telephone Number |  |
| Fax Number |  |
| Email |  |

**2.**

**Requirement (R) is a requirement of the Framework Agreement & Suppliers must provide & accept.**

**RISK CRITERIA REQUIRED (R) ANSWER**

|  |  |  |  |
| --- | --- | --- | --- |
| Q1 | **Provided Professional Indemnity Insurance £1m** | **R** | **SEE 2.1 BELOW** |
| Q2 | **Provided Public Liability Insurance £5m** | **R** | **SEE 2.1 BELOW** |
| Q3 | **Proven Experience** | **R** | **SEE STAGE 2 BELOW** |
| Q4 | **Provided Set of Accounts** | **R** | **SEND BACK WITH SUBMISSION** |
| Q5 | **Established in Profession more than a year** | **R** | **SEE STAGE 2 BELOW** |
| Q6 | **Signed the National Heritage Memorial Fund’s Terms & Conditions** | **R** | **SEE APPENDIX 1** |

The Supplier must inform the Fund if they are receiving public and or grant funding to undertake similar or related activities to that defined in this procurement exercise. Please provide details with your quotation in the table below.

|  |  |
| --- | --- |
| Funder |  |
| Funding Activities |  |
| Date |  |
| Period of Funding |  |

1. Statement of Insurance Cover
   1. Details of existing policies which will provide insurance cover for the contract

PROVIDE COPIES OF CERTIFICATES WITH YOUR RETURN

|  |  |  |  |
| --- | --- | --- | --- |
| Type of Policy | Insurers | Policy Number | Renewal Date |
| PUBLIC LIABILITY  (Minimum Cover  £5,000,000 for each  and every incident) |  |  |  |
| PROFESSIONAL INDEMNITY  (Minimum Cover  £1,000,000 for each and every incident) |  |  |  |
| PRODUCT LIABILITY  (Minimum Cover  £1,000,000 for each and every incident) |  |  |  |
| EMPLOYER’S LIABILITY  (minimum statutory limit as laid down by legislation) |  |  |  |

* 1. Details of any new policies or endorsements to existing policies that will be required to comply with the insurance provisions of the contract.

|  |  |  |
| --- | --- | --- |
| Type of Policy | Proposed Insurers | Details |
|  |  |  |

* 1. Details of Insurance Agent/Broker

|  |  |
| --- | --- |
| Name |  |
| Address |  |
| Postcode |  |
| Contact Name |  |
| Telephone No. |  |
| Fax No. |  |
| Email |  |

* 1. I/We confirm that the insurances detailed in paragraph 2.1 and 2.2 will provide all the Insurance cover required under the Contract.
  2. I/We agree that the details provided in the insurance statement may be checked with the Insurance Agent/Broker named in paragraph 2.3

In the event that my/our offer is under consideration I/We agree to arrange, with the insurers the provision of a Statement to the Fund:-

1. that valid Insurance is held in accordance with the requirements of Conditions of Contract;
2. that all premiums due to the Insurer have been paid including instalment payments;
3. that the Insurer agrees to give notice forthwith to Fund of withdrawal or intention to withdraw insurance cover in connection with the project.

|  |  |
| --- | --- |
| Date |  |
| Signatures of Quotation Supplier/Agent |  |
| Trade or Business Name |  |
| Address |  |
| Telephone No. |  |
| Email |  |

* 1. This document is to be signed by such persons:-

1. where the Supplier is an individual, by that individual;
2. where the Supplier is a partnership, by one duly authorised partner;
3. where the Supplier is a company by one Director or
4. by a Director and the secretary of the Company, such persons being duly authorised for that purpose.
5. References

Please provide details of two references that are relevant and can demonstrate your ability to deliver this opportunity. If you cannot provide two references, you must at least provide one reference and you must please explain why you cannot provide two references. Applicants who do not show relevant experience or do not provide a response will have failed Stage One of the assessment.

|  |  |  |
| --- | --- | --- |
|  | Reference 1 | Reference 2 |
| Customer Organisation (Name) |  |  |
| Customer Contact Name and Telephone No. |  |  |
| Date contract awarded |  |  |
| Contract Reference and Brief Description |  |  |
| Value |  |  |
| Contract Completion Date |  |  |

|  |  |
| --- | --- |
| Have you had any contracts terminated for poor performance in the last three years, or any contracts where damages have been claimed by any other party? | □ Yes  □ No |
| If “Yes” please give details: | |

1. Fund Social Responsibility

As part of the Fund’s social responsibility there is a requirement to pay employees a fair Living Wage set by the Living Wage Foundation, which is currently £8.25 per hour for a major non-capital city.

Please confirm you are to pay at least the above amount to all employees (other than an intern or apprentice) who will provide the service, involving 2 or more hours of work on any given day in a week.

□ Yes

□ No

STAGE 2 – PREVIOUS EXPERIENCE (PASS / FAIL)

Questions

Please provide relevant evidence of the experience that your organisation has in delivering this type of project for a period of more **than three years**.

|  |
| --- |
| Answer |

STAGE 3 – QUALITY RESPONSE (SCORED)

|  |  |  |
| --- | --- | --- |
| **Quality Criteria** | **Questions** | **Please answer questions below in the corresponding boxes** |
| **Niche Experience & Proven Capability** |  |  |
| Describe your process from Brief, Concept, Story Board | **Q1** |  |
| Detail other Corporate films made in last 2 years | **Q2** |  |
| Detail other Heritage or voluntary sector type features produced | **Q3** |  |
| **Production** |  |  |
| Describe the anticipated Production Process | **Q4** |  |
| Outline in brief in-house equipment used in the whole process and identify any bought in equipment. Where appropriate including makes and approximate age of equipment | **Q5** |  |
| **Innovation, Creativity & Staff Experience** |  |  |
| Describe you creative process & provide examples of ideas turned in to films –provide links if applicable | **Q6** |  |
| **Production Staff Experience** |  |  |
| Detail staff that would be engaged under this Framework Agreement & provide their C.V.’s | **Q7** |  |
| Provide 5 relevant examples of detailed Staffs’ recent work | **Q8** |  |
| Detail your geographical limitations (UK/ South/ London, etc.) | **Q9** |  |
| **Client Services** |  |  |
| Explain how you work with the client to agree and approve the work plan/ production schedules and agree final edits and assets | **Q10** |  |
| **Archive & Asset Management Process** |  |  |
| Detail how you archive & manage digital assets | **Q11** |  |

Applicants must respond to and provide relevant information with regard to all matters set out below. The responses and information MUST be submitted as part of the quotation response. Failure to provide such information may result in your submission being rejected.

Material Misrepresentation

The Fund shall rely on the information provided by the Supplier in relation to this section of the Tender Document prior to accepting the tender. A material misrepresentation contained therein shall constitute a material breach of contract.

Questions

STAGE 4 – PRICE

Pricing Summary

4.1 Please double click to open IN FULL the Excel Spread Sheet below. Once open, please scroll up and down to complete cells in Yellow and remember to **save this RFQ Word document**. If you require a separate Excel File and not an embedded sheet please email the Fund’s Purchasing Manager.

There are some **example figures** entered in the Yellow cells to demonstrate format.



4.2 All prices shall be in all cases exclusive of Value Added Tax, which will be applied in accordance with legislation.

* 1. The price(s) are deemed to be inclusive of all costs and expenses, incurred in providing the product or service, except Travel and Subsistence, which are set out in Expenses Schedule B. No costs, other than those detailed will be allowed.

Payment by BACS

* 1. The Fund is implementing payments electronically by BACS and should your Quotation be accepted, you will be paid by BACS. Therefore, please provide the following information:

|  |  |
| --- | --- |
| Name & Address of Bank/Building Society |  |
| Bank/Building Society Sort Code |  |
| Bank/Building Society Account Number |  |
| Bank / Building Society Account Name |  |

APPENDIX 1

Confirmation Certificate

1. [Supplier’s Name] confirm that we understand and accept that the Fund has in its Invitation to Quote stated that the terms and conditions to this RFQ are in accordance to those set out in the Fund’s Standard Terms and Conditions and those Terms and Conditions in the Fund’s Framework Agreement, (for clarity the Terms and Condition of the Framework Agreement take precedence should a conflict of Terms arise).
2. We confirm that the quotation submitted is on the basis as set out in the document and that a relevant consideration for the Fund determining to proceed with the evaluation of our quotation is that we do not seek to negotiate on the Specification (other than to clarify and or determine a specific brief during the contract) or any of the aforementioned terms and conditions in 1. above.
3. If for any reason following the submission of our Quotation we seek to propose any changes to the Specification, Terms and Conditions or to put forward any proposal which conflicts and we do not withdraw that change following a written request to do so by the Fund then we agree that the Fund may determine not to evaluate our tender submission any further.

|  |  |
| --- | --- |
| Date |  |
| Supplier’s Signature  (by a director) |  |
| Name of director in block capitals |  |
| Supplier’s name |  |
| Supplier’s address |  |
| Supplier’s telephone number |  |
| Supplier’s e-mail address |  |

**Thank you for taking the time to respond to this Request for Quotation.**

**PRICING SUMMARY APPENDIX A**

**ATTACHED FILE OR EMBEDDED EXCEL WORKSHEET.**

**Update your Excel Worksheet and save to this location AND to the original location in the main document.**

**EXPENSES SCHEDULE APPENDIX B**

1. In order to obtain the best value for money, journeys must be arranged as economically as possible. You should use the most efficient and economical means of travel, taking into account the cost of your time, travel and subsistence. The Fund will refuse to meet any expenses that are considered unreasonable or which could have been avoided had the journey been better planned.
2. Claims will only be met within the limits set out in this Appendix B and on the production of valid receipts. Without a receipt, the Fund will not meet your claim.

**MILEAGE ALLOWANCE RATES**

All cars and larger vehicles 45p per mile up to 10,000 miles.

**SUBSISTENCE RATES**

Meals tea/ coffee/ drinks not included in the contract

Overnight Allowance (Outside London) £75

Overnight Allowance (Inside London) £150

**THE NATIONAL HERITAGE MEMORIAL FUND**

**STANDARD TERMS AND CONDITIONS APPENDIX C**

**1. DEFINITIONS**

1.1 In these Conditions:

"Business Day" any day other than a Saturday or Sunday or a public or bank holiday in England

"Fund" National Heritage Memorial the Fund (Fund)

"Conditions" the Conditions set out in this document together with any special terms agreed in writing (including by fax or email) between the Supplier and the Fund as specified on the Purchase Order

"Contract" the Framework Agreement for the sale and purchase of the Goods and the supply and acquisition of the Services formed in accordance with clauses 2.2 and 2.3

"Free Issue Materials" materials issued by the Fund to the Supplier free of charge pursuant to the Contract

"Goods" the goods (including any instalment of the Goods or any part of them) described in a Purchase Order

"Intellectual Property Rights" all intellectual and industrial property rights (including patents, know how, registered trademarks, registered designs, utility models, applications for and rights to apply for any of the foregoing, unregistered design rights and unregistered trademarks, rights to prevent passing off for unfair competition and copyright, database rights, domain names, topography rights and any other rights in any invention, discovery or process) in the United Kingdom and all other countries in the world and together with all renewals and extensions thereof

"Purchase Order" any purchase order issued by the Fund for the Goods or Services and which shall incorporate these Conditions

"Services" the services (if any) described in the Fund's Purchase Order

"Specification" includes the technical specifications, plans, drawings, data or other information including all materials and information which, explain the structure, type, design, operation and functionality of the Goods and Services referred to in or attached to the Purchase Order

"Supplier" the seller or supplier of the Goods or Services.

1.2 Any reference in these Conditions to any provision of a statute shall be construed as a reference to that provision as amended, consolidates, re-enacted, modified, extended or replaced at the relevant time.

1.3 The headings in these Conditions are for convenience only and shall not affect their construction or interpretation.

1.4 Any phrase in these Conditions introduced by the term "include", "including", "in particular" or any similar expression will be construed as illustrating and will not limit the sense of the words preceding that term.

1.5 In these Conditions the masculine includes the feminine and the neuter and the singular includes the plural and vice versa.

**2. APPLICATION OF TERMS**

2.1 These Conditions apply to the Framework Agreement and shall not be modified or excluded in whole or in part unless a duly authorised representative of the Fund otherwise agrees in writing.

2.2 Subject to variation in accordance with clause 2.1 the Framework Agreement will be upon these Conditions, the terms set out in the Purchase Order and any Specification referred to in or attached to the Purchase Order to the exclusion of all and any other conditions or contractual provisions and all previous oral or written representations (whether in conflict with these Conditions or not) including any terms and conditions which the Seller purports to apply in any quotation, form of acceptance, acknowledgement, delivery form, invoice or other document. The Fund shall not be deemed to accept such other conditions or contractual provisions by failing to object to provisions contained in any such document.

2.3 Delivery of Goods or commencement of performance of the Services following receipt of these Conditions shall constitute and may be relied on by the Fund as conclusive evidence of the Supplier's acceptance of these Conditions.

2.4 Each quotation for the Goods and Services from the Supplier will be deemed to be an offer by the Supplier to sell the Goods and Services upon these Conditions. All quotations provided by the Supplier, including the price provision, will remain open for 30 days from its date. The Framework Agreement is only formed when a written acceptance of the quotation is served by the Fund on the Supplier in the form of a Purchase Order. No Framework Agreement will exist prior to service of such notice of acceptance.

**3. SPECIFICATION AND QUALITY**

3.1 The quantity, quality and description of the Goods and the Services shall, subject to the provisions of these Conditions, be as specified in the Purchase Order and/or in any applicable Specification supplied by the Fund to the Supplier or agreed in writing by the Fund.

3.2 the Fund may at any time make written changes to the Purchase Order including changes in the Specification, method of shipment, quantities, packaging or time or place of delivery. If such change results in an increase in the cost of, or time required for, the performance of the Framework Agreement an equitable adjustment will be made to the price, delivery schedule or both. The Fund must approve any such claim or adjustment in writing before the Supplier proceeds with such changes.

3.3 Any Specification supplied by the Fund to the Supplier, or specifically produced by the Supplier for the Fund pursuant to the Contract, together with the copyright, design rights or any other intellectual property rights in the Specification, shall be the exclusive property of the Fund. The Supplier shall not disclose to any third party or use any such Specification except as required for the purposes of the Framework Agreement or to the extent that it is or becomes public knowledge through no fault of the Supplier.

3.4 The Supplier shall comply with all applicable regulations or other legal requirements concerning the manufacture, packaging and delivery of the Goods and the performance of the Services including implied conditions of fitness for purpose, satisfactory quality within the meaning of the Sale of Goods Act 1979 and all relevant British quality/ performance standards, shall operate a quality control procedure in relation to the Framework Agreement no less exacting than that required by ISO9001 and or ARB Standards of Conduct and Practice and or RICS Professional Guidance & Codes of Practice and shall obtain at its expense all necessary consents, licences and permits required for performance of the Contract.

3.5 the Fund and its representatives will have the right to inspect and test the Goods any time prior to delivery and for this purpose the Supplier shall provide access to its premises and shall ensure that the Fund and its representatives have the right to access the premises of any third party during manufacture, processing or storage. The Supplier shall provide the Fund with all facilities reasonably required for inspection and testing. The Supplier shall upon request provide the Fund with all information relating to the Goods or the performance of the Services as the Fund may reasonably require and shall raise no objection to inspection of the Goods or of the performance of the Services by the Fund or its representatives.

3.6 If as a result of inspection or testing the Fund is not satisfied that the Goods or performance of the Services will comply in all respects with the Framework Agreement and the Fund so informs the Supplier within seven days of inspection or testing, the Supplier shall take all steps necessary to ensure compliance. Any failure of this obligation by the Supplier will be deemed a material breach which is not capable of remedy. Notwithstanding any such inspection or testing the Supplier will remain fully responsible for the Goods and any such inspection or testing will not diminish or otherwise affect the Supplier's obligations under the Contract.

3.7 The Goods shall be marked in accordance with the Fund's instructions and any applicable regulations, quality assurance standards, or requirements of the carrier and shall be properly packed, stored and secured so as to reach their destination in an undamaged condition.

**4. PROOFS**

4.1 Unless otherwise stated in the Purchase Order the Supplier shall produce to the Fund at the time stated in the Purchase Order or otherwise agreed in writing between the parties a proof or proofs of the Goods for acceptance by the Fund prior to the Supplier producing the Goods (a "Proof").

4.2 The Fund will return such Proofs to the Supplier, with all corrections marked on the Proofs and such Proofs being signed by an authorised representative of the Fund. The Supplier shall ensure that all the corrections marked on the Proofs by or on behalf of the Fund are fully incorporated before production of the Goods. The Goods shall comprise materials substantially the same and of quality which is equal to or better than the material used in the Proofs. The Fund is entitled to reject any Goods which do not comply with these provisions.

4.5 The Supplier shall be responsible for any errors or omissions in any drawings, calculations, packing details or other particulars supplied by the Supplier, whether such information has been approved by the Fund or not, provided that such errors or omissions are not due to inaccurate written information given to the Supplier by the Fund.

**5. PRICE**

5.1 The price of the Goods and Services shall be the price stated in the Purchase Order or (if not stated in the Purchase Order) the price published or notified by the Supplier to the Fund at the time of the Purchase Order and, unless otherwise specified shall be:

(i) exclusive of any applicable value added tax (which shall be payable by the Fund subject to receipt of a correct and valid VAT invoice); and

(ii) inclusive of all charges for labour, materials, equipment, overheads, packaging, packing, shipping, carriage, insurance and delivery of the Goods to the delivery address stated in the Purchase Order, duties, imposts or levies other than value added tax, all royalties, licence fees or similar expenses for the supply or use of any invention, process, model or information and all other costs of the Supplier in connection with the Framework Agreement for full and proper performance by the Supplier.

5.2 No increase in the price may be made (whether on account of increased material, labour or transport costs, fluctuation in rates of exchange or otherwise) without the prior written consent of the Fund.

5.3 The Fund shall be entitled to any discount for prompt payment, bulk purchase or volume of purchase customarily granted by the Supplier to its customers, whether or not this discount is shown in the Supplier's own terms and conditions of sale.

**6. PAYMENT**

6.1 The Supplier may invoice the Fund on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice must be a correct and valid VAT invoice and shall quote the number of the Purchase Order.

6.2 Without prejudice to any other right or remedy, the Fund reserves the right to set off any liability of the Supplier to the Fund against any liability of the Fund to the Supplier.

6.3 If any sum under the Framework Agreement is not paid when due then, without prejudice to the parties' other rights under the Contract, that sum will bear interest from the due date until payment is made in full, both before and after any judgment, at 1% above Lloyds Bank plc's base rate from time to time. The Supplier is not entitled to suspend delivery of the Goods or performance of the Services as a result of any sums being outstanding.

6.4 The Supplier may be required to sign up to Government Purchasing Card system (GPC).

6.5 The Supplier may request payment on or at any time after confirmed delivery of all Goods under the Framework Agreement and certification of satisfactory quality signed by the Fund's representative.

**7. DELIVERY**

7.1 the Fund is under no obligation to pay for Goods which are delivered in excess of the quantity specified in the Purchase Order and the Fund shall, at its option, either retain such excess Goods free of charge or notify the Supplier of such excess. If the Fund notifies the Supplier of delivery of the excess Goods those Goods will remain at the Supplier's risk and be returnable at the Supplier's expense.

7.2 Unless otherwise agreed in writing the Goods shall be delivered and off-loaded and the Services performed during the Fund's normal business hours at the address and on the date or dates specified in the Fund's Purchase Order. Where the date of delivery of the Goods or of performance of the Services is to be set after the date of the Purchase Order, the Supplier shall give the Fund reasonable notice of this date, which shall be not less than 28 days from the date of the Framework Agreement unless otherwise agreed in writing by the Fund.

7.3 The time of delivery of the Goods and of performance of all the Supplier's obligations is of the essence of the Contract.

7.4 A packing note displayed prominently and quoting the number of the Purchase Order must accompany each delivery or consignment of the Goods.

7.5 The Fund may reject any Goods delivered or not accept any performance of the Services which have not been delivered or performed in accordance with the Contract.

7.6 The Fund will not be deemed to have accepted the Goods until it has had ten Business Days to inspect them following delivery. The Fund will also have the right to reject the goods as though they had not been accepted for ten Business Days after any latent defect in the Goods has become apparent.

7.7 Goods rejected pursuant to clauses 7.5 and 7.6 shall be returned to the Supplier at the Supplier's request and at the Supplier's risk and expense. Alternatively, if the Supplier fails to collect the rejected Goods within a reasonable time after the Fund has given it notice of rejection of the Goods the Fund may dispose of the rejected Goods in such manner as it thinks fit provided that it shall account to the Supplier for the net proceeds of sale (if any). If any of the Goods or Services are so rejected, without prejudice to any other right of the Fund, the Fund may purchase replacement Goods or Services from an alternative supplier and any additional expense incurred and/ or any losses or expenses (if any) incurred by the Fund resulting from the Goods or Services not being in accordance with the Framework Agreement shall be borne by the Supplier.

7.8 If the Fund agrees that the Goods can be delivered in instalments, or the Services can be performed in stages, then each instalment or stage will be treated as a separate Contract. Without prejudice to any other right or remedy, the Fund will have the right, but not the obligation, to treat all the Contracts for the total Purchase Order as repudiated if the Supplier fails to deliver or perform any instalment or stage and to reject any or all of the instalments or stages for the total Purchase Order if the Fund is entitled to reject any one instalment or stage.

7.9 The Supplier shall supply the Fund with any instructions or other information required to enable the Fund to accept delivery of the Goods and performance of the Services within five Business Days before the delivery of the Products or performance of the Services.

7.10 The Fund shall not be obliged to return any packaging materials to the Supplier, whether or not the Goods are accepted by it.

7.11 If the Goods are not delivered or the Services are not performed on the due date then, without prejudice to any other remedy, the Fund shall be entitled to cancel the Framework Agreement in whole or in part.

7.12 The Supplier shall provide evidence of the date and time of delivery and the quantity of the Goods delivered when requested so to do by the Fund.

**8. ORIGIN AND INSTRUCTIONS**

8.1 Upon receipt of a request from the Fund the Supplier shall provide to the Fund evidence of the place of origin of the Goods or any part of the Goods or of raw materials utilised in their manufacture.

8.2 The Supplier shall submit with the Goods full instructions for use and clear warnings with respect of anything which may reasonably be done or omitted to be done in relation to the Goods and which could render them unsafe.

**9. RISK AND PROPERTY**

9.1 Subject to clause 9.2 ownership of the Goods will pass to the Fund on delivery (which will occur after the Goods have been unloaded and stacked).

9.2 If the Goods are paid for prior to delivery ownership (but not risk) of the Goods shall pass to the Fund on payment.

9.3 All items including materials, equipment, tools, Free Issue Materials, dyes and moulds supplied by the Fund to the Supplier and all Proofs will at all times:

(i) be and remain the exclusive property of the Fund;

(ii) be held by the Supplier in safe custody at its own risk;

(iii) be maintained and kept in good condition by the Supplier until returned to the Fund;

(iv) not be disposed of other than in accordance with the Fund's written instructions; and

(v) not be used otherwise than as authorised by the Fund in writing.

9.4 The risk in materials issued by the Fund to the Supplier for incorporation in the Goods including Free Issue Materials, shall pass to the Supplier on delivery.

9.5 If the Fund issues Free Issue Materials pursuant to the Framework Agreement the Free Issue Materials shall be and remain the property of the Fund. The Supplier shall maintain all such Free Issue Materials in good order and condition and shall use such Free Issue Materials solely in connection with the Contract. Without prejudice to any other rights of the Fund, the Supplier shall deliver up the Free Issue Materials to the Fund on the Fund's demand whether or not they have been altered or processed. Any surplus Free Issue Materials shall be disposed of at the Fund's discretion. Waste of the Free Issue Materials arising from bad workmanship or the default or negligence of the Supplier shall be made good at the Supplier's expense.

**10. INTELLECTUAL PROPERTY RIGHTS**

10.1 The Fund authorises the Supplier to only use those of its Intellectual Property Rights for the purposes of exercising its rights and performing its obligations under the Framework Agreement. The Supplier will have no other rights whatsoever in respect of the Fund's Intellectual Property Rights and upon completion of the Framework Agreement will return to the Fund all materials containing or embodying the Intellectual Property Rights.

10.2 The Supplier warrants that neither the Goods, nor their use, resale or importation, infringes the Intellectual Property Rights of any third party except to the extent that any infringements arise directly from the use by the Supplier of any Specifications, drawings, samples or descriptions provided by the Fund.

**11. CONFIDENTIALITY**

11.1 Without prejudice to the application of the Official Secrets Acts to any such information the Supplier undertakes:

(i) that any information, obtained in the course of the execution of the Framework Agreement is confidential and shall be used by the Supplier solely for the purposes of the Framework Agreement and shall not at any time be disclosed without the consent of the Fund.

(ii) to provide all necessary precautions to ensure that all information is treated as confidential and not disclosed as aforesaid.

(iii) that any technical information that is clearly designated as confidential and received by the Supplier under the Framework Agreement shall be treated in accordance with the provisions of this paragraph (i) from receipt thereof. Nothing therein shall be so construed as to prevent the Supplier from using data processing techniques, ideas, knowledge etc. gained during the performance of the Framework Agreement in the furtherance of its normal business, to the extent that this does not result in the disclosure of confidential information or a breach of any valid patents, third party rights or copyrights of the Fund.

11.2 The Supplier shall disclose such confidential material to its employees on a strictly need to know basis for the purpose of discharging the Supplier's obligations to the Fund under the Framework Agreement and shall ensure that such employees are subject to the same obligations of confidentiality as bind the Supplier.

**12. WARRANTIES AND LIABILITY**

12.1 The Supplier warrants to the Fund that the Goods and Services:

(i)  will be of satisfactory quality within the meaning of the Sale of Goods Act 1979 and fit for any purpose held out by the Supplier or made known to the Supplier in writing or orally at the time the Purchase Order is placed;

(ii) will be free from any defects in design, material and workmanship for a period not shorter than the longer of the Supplier's warranty or 24 months from delivery, unless industry practice indicates a longer warranty period or unless otherwise agreed in writing with the Fund;

(iii) will correspond in all respects with the Purchase Order and with any relevant Specification or sample provided by the Fund to the Supplier;

(iv) will comply with all statutory requirements, governmental, local authority and other regulations, orders, relevant British Standards and EC requirements and regulations (whether voluntary or not) relating to the Goods and Services and their sale and supply;

(v)  will be performed by appropriately qualified and trained personnel, with due care and diligence in accordance with the Contract;

(vi)  will be performed by appropriately qualified, trained and experienced personnel with a high standard of skill, care and diligence and in accordance with the Contract; and

(vii) will be performed to such standards of quality generally observed in the industry for similar services.

12.2 Without prejudice to any other remedy, if any Goods or Services are not supplied or performed in accordance with the Framework Agreement or the Fund terminates the Framework Agreement in accordance with clause 14.2 then the Fund may (whether or not the Goods have been accepted or the Services performed):

(i)  require the Supplier to repair the Goods or to supply replacement Goods or Services in accordance with the Framework Agreement within seven days of receipt of such a request from the Fund;

(ii)  at the Fund's sole option, and whether or not the Fund has previously required the Supplier to repair the Goods or to supply any replacement Goods or Services, to treat the Framework Agreement as discharged by the Supplier's breach and require the repayment of any part price which has been paid;

(iii) cancel any or all remaining instalments or stages if the Framework Agreement has not already been terminated;

(iv) refuse to accept any subsequent delivery of the Goods or performance of the Services which the Supplier attempts to make;

(v) recover from the Supplier any additional expenditure reasonably incurred by the Fund in obtaining goods or services equivalent to the Goods or Services in substitution from another supplier; and/or

(vi) claim damages for any additional costs, losses or expenses incurred by the Fund which are in any way attributable to the Supplier's breach of the Framework Agreement or failure to deliver the Goods or perform the Services on the due date or at all.

12.3 The Supplier will indemnify, keep indemnified and hold harmless the Fund from and against all costs (including the cost of enforcement), expenses, liabilities (including any tax liability), injuries, direct, indirect or consequential loss (all three of which terms include pure economic loss, loss of profit, loss of business, depletion of goodwill and like loss, damages, claims, demands, proceedings or legal costs (on a full indemnity basis) and judgments which the Fund incurs or suffers as a consequence of:

(i)  a direct or indirect breach or negligent performance by the Supplier or failure or delay in performance of the terms of the Contract;

(ii) any claim that the Goods infringe, or their importation, use or resale infringes the British or foreign patent, copyright, registered design, design right, trademark, trade name or other intellectual property rights of any other person, except to the extent that the claim arises from compliance with any Specification supplied by the Fund;

(iii) any act or omission of the Supplier or its employees, agents or sub-contractors in supplying, delivering and installing the Goods, or in the performance of the Services;

(iv) a failure to deliver the Goods on the due date for delivery, or to provide the Services on the due date for performance and/or in accordance with the Conditions, or in respect of a direct or indirect breach or negligent performance or failure in performance by the Supplier of the Contract;

(v)  claims made against the Fund in respect of any loss, damage or expense sustained by the Fund or its servants or agents or by any customer or other third party to the extent that such loss, damage or expense was caused by, relates to or arises from the Goods or the Services including any claim against the Fund under the Consumer Protection Act 1987 in respect of the Goods; or

(vi) any negligent, defamatory or illegal act or omission of the Supplier in connection with the provision, production or delivery of the Goods and/or Services.

12.4 The Supplier does not exclude its liability (if any) to the Fund for personal injury or death resulting from its negligence; for fraud; or for any other matter which it would be illegal to exclude or to attempt to exclude its liability.

**13. FORCE MAJEURE**

13.1 The Supplier shall not be liable to the Fund by reason of any delay in performing, or any failure to perform, any of its obligations in relation to the Goods or the Services, if the delay or failure was beyond the Supplier's reasonable control pursuant to an act of God.

13.2 If the Supplier cannot supply the Fund in accordance with the terms of a Purchase Order because of an event described in clause 13.1, and if the Fund reasonably anticipates that this may prevent the Fund performing obligations to its own customers, the Fund may terminate immediately by written notice that part of, or all of, the Purchase Order which the Supplier cannot fulfil.

**14. TERMINATION**

14.1 The Fund may at any time and for any reason cancel the Purchase Order in whole or in part by notice to the Supplier. If the Fund cancels the Framework Agreement pursuant to this clause 14.1 the Supplier shall discontinue all work on the Purchase Order and the Fund shall pay the Supplier for work in progress at the time of termination.

14.2 The Fund may by written notice to the Supplier terminate the Framework Agreement immediately if the Supplier:

(i) is in material breach of any of the terms of the Framework Agreement and, where the breach is capable of remedy, the Supplier fails to remedy such breach within seven days (or such shorter period as may be specified) after service of a written notice from the Fund, specifying the breach and requiring it to be remedied. Failure to deliver Goods or perform any Services on the due date in accordance with clause 7.2 is a material breach of the terms of the Framework Agreement that is not capable of remedy;

(ii) becomes bankrupt, insolvent, has a receiver, manager or administrative receiver appointed, makes any composition with its creditors, has a receiver appointed under the Mental Health Act 1983 or dies;

(iii) has any distraint, execution or other process levied or enforced on any of its property;

(iv) the Supplier ceases, or threatens to cease, to carry on business;

(v) has a change in its management and/or control as defined by section 416 Income and Corporation Taxes Act 1988, or the Fund reasonably anticipates that one of the above circumstances is about to occur.

**15. PUBLICITY**

The Supplier shall not communicate with representatives of the general or technical press, radio, television or other communications media unless specifically granted permission to do so in writing by the Fund's representative. In response to any media or other enquiries relating to the Fund, the Supplier will refer the caller to the Fund’s representative, and will inform the representative of the enquiry as soon as practicable.

**16. SAFETY**

The Supplier shall be responsible for the observance by himself, his employees and subcontractors of all safety precautions necessary for the protection of himself, his employees, subcontractors and any other persons including all precautions required to be taken by or under any Act of Parliament including any regulations or bye-law of any local or other authority. He shall co-operate fully with the Fund to ensure the proper discharge of these duties.

**17. AUDIT AND RECORDS**

17.1 The Supplier shall maintain true and correct records including accountancy information in connection with the work of the Supplier in executing this Contract. The Supplier shall retain such records for a period of not less than twenty-four months after completion of the Services.

17.2 The Fund may from time to time make an audit of all records of this Contract. Where the Fund elects to undertake an Audit, the Supplier shall be given reasonable notice of the Fund's intention. Statutory retention periods for financial and other records are not affected nor altered by this condition.

**17. NATIONAL AUDIT OFFICE ACCESS**

18.1 For the purpose of:

(i) the examination and certification of the Fund’s accounts; or

(ii) any examination pursuant to section 6(1) of the National Audit Act 1993 or any re-enactment thereof of the economy, efficiency and effectiveness with which the Fund has used its resources

The Comptroller and Auditor General may examine such documents as he may reasonably require which are owned, held or otherwise within the control of the Supplier and may require the Supplier to produce such oral or written explanation as he considers necessary.

**19. ROYALTIES**

All royalties, licence fees or similar expenses for the supply or use of any invention, process, drawing, model, plan or information in connection with the Framework Agreement shall be deemed to have been included in the Framework Agreement Price. The Supplier shall indemnify the Fund from and against all claims and proceedings that may be made against the Fund, and any damages, costs and expenses incurred by the Fund in respect of any such supply or use.

**20. INDEPENDENT SUPPLIER**

The Supplier shall at all times during the term of this Framework Agreement be an Independent Supplier with respect to the Fund and nothing in this Framework Agreement shall be construed as creating at any time the relationship of employer and employee between the Fund and the Supplier in case the supplier is an individual; and in case the supplier is a company nothing in this Framework Agreement shall constitute a partnership or joint venture between the Parties.

**21. FREEDOM OF INFORMATION**

21.1 The Supplier shall make available at its own cost any information reasonably requested by the Fund in connection with the Supplier’s performance under this Framework Agreement and shall allow such access to its premises and contact with its employees as is necessary for these purposes. The Fund may share information about this Framework Agreement with other Lottery distributors, Government departments and other organisations with a legitimate interest in Lottery funding as well as with members of the public who make a request for information under the Freedom of Information Acts. The provisions of the Freedom of Information Act 2000 for information held in England, Wales and Northern Ireland and the Freedom of information (Scotland) Act 2002 for information held in Scotland.

21.2 In particular, the Supplier shall and shall procure that its employees or sub-contractors shall provide all necessary information and assistance as reasonably requested by the Fund to enable the Fund to respond to any request for information it receives and in compliance with the provisions of the Freedom of Information Act 2000.

21.3 The Fund shall be responsible for determining in its absolute discretion whether any commercially sensitive information or other information is exempt from disclosure or may be disclosed either without consulting the Supplier or following consultation with the Supplier and having taken its views into consideration

**22. GENERAL**

22.1 Each right or remedy of the Fund under the Framework Agreement is without prejudice to any other right or remedy of the Fund whether under the Framework Agreement or not.

22.2 The Fund may assign, license or sub-contract all or any part of its rights or obligations under the Framework Agreement without the Supplier's consent.

22.3 The Supplier shall not be entitled to assign the Framework Agreement or any part of it without the prior consent of the Fund in writing.

22.4 Neither the Fund nor the Supplier shall during the term of the Framework Agreement and for 12 months following its termination either directly or indirectly solicit or entice away (or seek to attempt to solicit or entice away) from the employment of the other party any person employed by such other party's group (in the case of the Fund) in the provision of the Goods and Services to the Supplier or (in the case of the Supplier) in the receipt and/or administration of the Goods and Services from the Fund without the other party's prior agreement in writing providing that nothing in this clause 22.4 shall prohibit a party from engaging a person who replies to a general advert and who is not otherwise solicited or enticed.

22.5 No failure or delay by the Fund to exercise any right, power or remedy will operate as a waiver of it nor will any partial exercise preclude any further exercise of the same, or of some other right, power or remedy.

22.6 If any condition or part of the Framework Agreement is found by any court, tribunal, administrative body or authority of competent jurisdiction to be illegal, invalid or unenforceable then that provision will, to the extent required, be severed from the Framework Agreement and will be ineffective without, as far as is possible, modifying any other provision or part of the Framework Agreement and this will not affect any other provisions of the Framework Agreement which will remain in full force and effect.

22.7 Save as expressly stated otherwise in these Conditions the parties to this Framework Agreement do not intend that any of its terms will be enforceable by virtue of the Contracts (Rights of Third Parties) Act 1999 by any person not a party to it.

22.8 The Framework Agreement and the Specification contain all the terms which the Fund and the Supplier have agreed in relation to the Goods and/or Services and supersedes any prior written or oral agreements, representations or understandings between the parties relating to such Goods and/ or Services. The Supplier acknowledges that it has not relied on any statement, promise or representation made or given by or on behalf of the Fund, which is not set out in the Framework Agreement or specification. Nothing in this clause 22.8 will exclude any liability which one party would otherwise have to the other party in respect of any statements made fraudulently.

22.9 This Framework Agreement shall be governed by and construed in accordance with the laws of England and Wales and each party agrees to submit to the exclusive jurisdiction of the English Courts.