

Handling conditions: Corona Energy and Y&tH Police Forces only

SPECIAL CONDITIONS

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1. DEFINITIONS

In these Special Conditions, the following definitions apply:

“Authority” means the contracting Authority referred to in the Contract or any successor organisation responsible for the tendering, award and overall management (including the issue of any variations and modifications to Contract) of the Contract on behalf of that contracting Authority and where that Authority is a PCC then it is entering into this Contract on behalf of itself and the Chief Constable and all the Conditions will apply to both legal entities.

“Chief Constable” means the Chief Constable of the same relevant policing area as the Authority.

“Contract” means the contract between the Authority and the Supplier for the supply of Goods and Services commencing on 1 April 2021 and expiring on 31 March 2025.

“Data Controller” has the meaning set out in the Data Protection Legislation.

“Data Controller’s Data” means any Personal Data, any special categories of personal data as referred to in Article 9(1) of the GDPR and any Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR belonging to either the Authority or the Chief Constable.

“Data Processor” has the meaning set out in the Data Protection Legislation.

“Data Processing Details” means the description of the data Processing being carried out under the Contract, the details of which are set out in the data processing agreement with the relevant Data Controller.

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"Data Protection Legislation" means the DPA 2018, the GDPR, the applied GDPR (as applied by the DPA 2018), regulations made under the DPA 2018, regulations made under section 2(2) of the European Communities Act 1972 which relate to the GDPR or Law Enforcement Directive (Directive (EU) 2016/680) and any replacement or supplementary legislation coming into effect from time to time.

"Data Subject" has the meaning set out in the Data Protection Legislation.

"Data Subject Access Request" means a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.

"DPA 2018" means the Data Protection Act 2018;

"Goods" means the goods (or any part of them) set out in the Purchase Order.

"Intellectual Property Rights" means patents, copyright, registered and unregistered design rights, utility models, trade marks (whether or not registered), database rights, rights in know-how and confidential information and all other intellectual and industrial property rights and similar or analogous rights existing under the laws of any country and all rights to apply for or register such rights.

"Laws" means any law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any regulatory body, delegated or subordinate legislation or notice of any regulatory body or any approval of any local authority or statutory undertaker having jurisdiction in relation to the Goods and Services or with whose systems the Goods and Services are, or are to be, connected, from time to time.

"PCC" means the Police and Crime Commissioner(s) and/or Police, Fire and Crime Commissioner referred to in the Contract.

"Personal Data" has the meaning set out in the Data Protection Legislation.

"Premises" means the Authority's premises where the Goods and/or Services are to be delivered or performed.

"Process" has the meaning set out in the Data Protection Legislation.

"Purchase Order" means an official purchase order raised against the Contract by the Authority.

"Services" means the services to be provided by the Supplier under the Contract.

"SME" means an enterprise falling within the category of micro, small and medium-sized enterprises defined by the Commission Recommendation of 6 May 2003 concerning the definition of micro, small and medium-sized enterprises.

"Special Conditions" means the terms and conditions set out in this document.

"Sub-processor" means any third party appointed to process Personal Data on behalf of the supplier related to this Contract.

"Supplier" means the supplier referred to in the Contract.

"VCSE" means a non-governmental organisation that is value-driven and which principally reinvests its surpluses to further social, environmental or cultural objectives.

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2. INDEMNITY

Where the Authority is a PCC, references to any indemnity being given by the Supplier to the Authority shall be construed as also being given to the relevant Chief Constable.

3. PRIORITY OF TERMS AND CONDITIONS

If there is any ambiguity or inconsistency in or between the Supplier's call-off terms and conditions attached to the Contract and these Special Conditions, the Supplier's call-off terms and conditions shall prevail.

4. WORK ON THE PREMISES

4.1 If the Contract involves any Goods and Services which the Supplier delivers or performs on the Premises then, when required, the Supplier and their employees, sub-contractors and their employees shall comply with any security requirements including a right to search when entering or leaving the Premises and being escorted in certain areas. The Authority reserves the right to remove from the Premises anyone not complying with the Authority's security arrangements or suspected of being under the influence of alcohol, or any other substance which has the effect of impairing performance.

4.2 The Authority's decision as to whether any person is to be refused access to any Premises occupied by or on behalf of the Authority shall be final and conclusive and the Supplier shall replace promptly any such person to ensure that its requirements under the Contract are met.

4.3 The Authority shall bear the cost of or costs arising from any decision of the Authority under this clause 4 unless such a decision was made due to the Supplier or any persons attending the Premises on behalf of the Supplier being under the influence of alcohol, or any other substance which has the effect of impairing performance.

5. SUSPENSION – NOT USED

6. REPUTATION

6.1 The Supplier shall not, and shall use all reasonable endeavours to procure that neither its employees or subcontractors:

- (a) do any act or make any omission that has or could reasonably be expected to have an adverse impact upon the security of the business, operations, systems or properties or Premises of the Authority;
- (b) take any action which might or shall:
 - (i) harm or be prejudicial to the public confidence in the Authority and/or the Chief Constable or to its public image(s); or
 - (ii) bring the Authority and/or the Chief Constable into disrepute.

7. PUBLICITY

7.1 Unless expressly permitted in writing by the Authority, the Supplier shall not publish or permit to be published either alone or in conjunction with any other person any information, articles, photographs or other illustrations relating to or connected with the Contract.

7.2 This Contract shall not entitle the Supplier or any of their sub-contractors, agents or employees to endorse its goods or services with any reference to the Authority, the relevant police force or Chief Constable if applicable and the Supplier shall not exhibit for advertising or any other reason any goods

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or services or equipment supplied under the Contract which can be identified with the Authority without the prior written consent of the Authority.

- 7.3 Clause 7 includes any such reference made in any form of written, pictorial or audible advertising campaign, marketing, sales or promotion campaign.

8. INDEPENDENT POLICE COMPLAINT COMMISSION

The Supplier must ensure that all personnel are made aware of the ability of the Independent Police Complaints Commission to investigate any matters reported to them under the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015 including but not limited to the conduct of the Supplier and its personnel.

9. TRANSPARENCY

- 9.1 Following the publication of the Statutory Instrument 2012 - Amendment 2479 (<http://www.legislation.gov.uk/ukxi/2012/2479/made>), all Police Forces of England and Wales have an obligation to make publicly available a copy of each contract with a value exceeding £10,000 to which (i) the elected local policing body, or (ii) the chief officer of the police force maintained by the body, is or is to be a party.

- 9.2 As part of the transparency agenda, Government has made the following commitments with regard to procurement and contracting:

- (a) All new contracts over the value of £10,000 to be published in full online;
- (b) All items of spending over £500 per month to be published online.

- 9.3 To meet this requirement the Authority intends to publish all contracts over a value exceeding £10,000 on the Freedom of Information (FOI) page of the Bluelight Procurement Database (www.blpd.gov.uk).

- 9.4 In the event that the Authority is obliged to publish the Contract on the Freedom of Information (FOI) page of the Bluelight Procurement Database (www.blpd.gov.uk), the Authority shall contact the Supplier no less than fourteen calendar days prior to the intended publication so as to allow the Supplier to make any permitted redactions and the Authority agrees not to publish the Contract until the permitted redactions have been made and approved by the Supplier.

- 9.5 The full list of criteria for which redactions may be permitted as set out as follows:

- (a) Exemptions (absolute or qualified) provided for by the Freedom of Information Act 2000, regarding the disclosure of information;
- (b) Provisions provided for in the Public Contracts Regulations 2015, regarding the disclosure of confidential information;
- (c) Protection of personal privacy as required under the Data Protection Act;
- (d) The protection of Intellectual Property Rights (IPR);
- (e) Third party confidential information e.g. contracts with foster carers and child minders.

- 9.6 Information and guidance on understanding exemptions and other FOI matters can be accessed from the Information Commissioner's Office www.ico.gov.uk.

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10. THIRD PARTY RIGHTS

- 10.1 Except as expressly provided in clause 10.2 below, a person who is not party to the Contract shall not have any rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of the Contract.
- 10.2 The Chief Constable also has the benefit of the Contract and is able to enforce all the Supplier's obligations set out in the Contract.
- 10.3 The rights of the Parties to terminate, rescind or agree any variation, waiver or settlement under the Contract are not subject to any other party.

11. BARRED LIST

- 11.1 This clause 11 shall apply where the Services being provided under the Contract include functions of a public nature which relate to policing and law enforcement.
- 11.2 In accordance with the Part 4A of the Police Act 1996, no employees of the Supplier, or any subcontractor, are permitted to be involved in the provision of the Services if they are on the police barred list published from time to time by the College of Policing ("Barred List").
- 11.3 The Supplier is responsible for ensuring all personnel supporting the Contract, including but not limited to, sub-contractors employees are not on the Barred List and shall ensure throughout the term of the Contract that they are at all times compliant with the requirements of clause 11.2 above.
- 11.4 To enable the Authority to comply with its duties under Part 4A of the Police Act 1996, when so requested by the Authority, the Supplier shall provide a list of the names of all persons who it is expected will be engaged in the provision of the Goods and/or performance of the Services, specifying the capacities in which they are concerned with the Contract and giving such other particulars as the Authority may reasonably require to permit the Barred List and the Police Advisory List to be checked.
- 11.5 The outcome of any check made pursuant to clause 11.4 above and the decision from the Authority in respect of the same is final and binding. Employees who are found by the Authority or notified to the Authority as being on the Barred List are not permitted to work on this Contract and the Supplier shall replace any of its employees or sub-contractor's employees who are on the Barred List.
- 11.6 Following the removal of any of the Supplier's or sub-contractor's employees in accordance with clause 11.5 above, the Supplier shall ensure such person is replaced promptly with another person with the necessary training and skills to meet the requirements of the Contract.

12. DATA PROTECTION

- 12.1 The Supplier warrants that it will comply with the Data Protection Legislation and this clause is in addition to, and does not relieve, remove or replace the Supplier's obligations under the Data Protection Legislation.
- 12.2 the Supplier shall only Process the Data Controller's Data to the extent, and in such a manner, as is necessary for the performance of its obligations under the Contract or for the purposes identified by the Data Controller and in the manner specified by the Data Controller and for no other purpose or in any manner except on the written instructions of the Data Controller or as required by any Laws. The Supplier shall not determine at any time any other purpose or means of the Processing aside from those specified in this clause 12.2 and, if it is so required by any Laws, the Supplier shall promptly notify the Data Controller before Processing the Data Controller's Data unless prohibited by such Laws.

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The Supplier will keep a record of any Processing of the Data Controller's Data it carries out under the Contract.

- 12.3 Where the Supplier processes Data Controller's Data on behalf of either the Authority or the Chief Constable if applicable, the following provisions of this clause 12 shall apply.
- 12.4 The Supplier shall notify the Authority immediately if it considers that any of the Data Controller's instructions infringe the Data Protection Legislation.
- 12.5 The Supplier shall promptly comply with any request from the Data Controller requiring the Supplier to amend, transfer or delete the Personal Data.
- 12.6 The Supplier shall only collect any Personal Data in a form which is fully compliant with the Data Protection Legislation
- 12.7 If the Supplier receives any complaint, notice or communication which relates directly or indirectly to the Processing of the Personal Data or to either Party's compliance with the Data Protection Legislation and the data protection principles set out therein, it shall promptly notify the Data Controller and it shall provide the Data Controller with full co-operation and assistance in relation to any such complaint, notice or communication.
- 12.8 At the Data Controller's request, the Supplier shall provide to the Data Controller a copy of all Personal Data held by it within 30 days of the Data Controller's request in the format and on the media reasonably specified by the Data Controller.
- 12.9 The Supplier or any of its subcontractors shall not transfer the Personal Data outside of the United Kingdom unless
- (a) such a transfer is to a member of the European Economic Area or a country that has been granted an adequacy decision under article 45 of Regulation (EU) 2016/679; or
 - (b) the Supplier or its subcontractors possess a signed and valid copy of the European Commission's Standard Contractual Clauses for the transfer of Personal Data from the European Union to processors established in third countries (controller to processor transfers), as set out in the Annex to Commission Decision 2010/87/EU.
- 12.10 The Supplier shall promptly inform the Data Controller if any Personal Data is lost or destroyed or becomes damaged, corrupted, or unusable. The Supplier will restore such Personal Data at its own expense.
- 12.11 The Supplier shall ensure that access to the Personal Data is, in accordance with the Data Protection Legislation, limited to:
- (a) those employees; agents, Affiliates, subcontractors and any brokers or other third parties approved by the Authority who need access to the Personal Data to meet the Supplier's obligations under this Contract (hereinafter referred to as the "Permitted Recipients"); and
 - (b) in the case of any access by any Permitted Recipients, such part or parts of the Personal Data as is strictly necessary for performance of that Permitted Recipient's duties.
- 12.12 The Supplier shall ensure that all Permitted Recipients:
- (a) are informed of the confidential nature of the Personal Data;
 - (b) have undertaken training in the Data Protection Legislation relating to handling Personal Data; and

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- (c) are aware both of the Supplier's duties and their personal duties and obligations under the Laws, the Data Protection Legislation and this Contract.
- 12.13 The Supplier shall take reasonable steps to ensure the reliability of any of the Supplier's employees who have access to the Personal Data including any vetting status required.
- 12.14 The Supplier shall provide the Data Controller with full co-operation and assistance in relation to any request made by a Data Subject to have access to that person's Personal Data.
- 12.15 The Supplier shall not disclose the Personal Data to any Data Subject or to a third party other than at the request of the Data Controller or as provided for in this Contract in accordance with the Data Protection Legislation.
- 12.16 The Supplier warrants that:
- (a) it will Process the Personal Data in compliance with the Data Protection Legislation; and
 - (b) it will take appropriate technical and organisational measures against the unauthorised or unlawful Processing of Personal Data and against the accidental loss or destruction of, or damage to, Personal Data to ensure the Data Controller's compliance with the seventh data protection principle.
- 12.17 To the extent permitted by Law, the Supplier shall notify the Data Controller immediately if it:
- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
 - (b) receives a request to rectify, block or erase any Personal Data;
 - (c) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
 - (d) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data Processed under this Contract; or
 - (e) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law.
- 12.18 The Supplier shall notify the Data Controller immediately if it becomes aware of any unauthorised or unlawful Processing, loss of, damage to or destruction of the Personal Data.
- 12.19 The Supplier shall, at the written direction of the Data Controller, delete or return Personal Data (and any copies of it) to the Data Controller on termination of the Contract unless the Supplier is required by Law to retain the Personal Data. The Supplier may also retain a copy of the Personal Data for audit purposes.
- 12.20 The Supplier agrees to indemnify and keep indemnified and defend at its own expense the Data Controller against all reasonable costs, claims, damages or expenses incurred by the Data Controller or for which the Data Controller may become liable due to any failure by the Supplier or its employees or agents to comply with any of its obligations under this clause 12.
- 12.21 Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Supplier must:
- (a) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause 12 such that they apply to the Sub-processor; and
 - (b) provide the Data Controller with such information regarding the Sub-processor as the Data Controller may reasonably require.
- 12.22 The Supplier shall remain fully liable for all acts or omissions of any of its Sub-processors.

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13. FREEDOM OF INFORMATION AND ENVIRONMENTAL INFORMATION REGULATIONS

- 13.1 The Supplier acknowledges that the Authority and the Chief Constable if applicable are subject to the requirements of the Freedom Of Information Act 2000, (FOIA), and the Environmental Information Regulations 2004 (EIR) and the Supplier agrees to assist and cooperate with the Authority and the Chief Constable if applicable (at the Authority's expense) as mandated by the Authority or Chief Constable if applicable in relation to these laws.
- 13.2 Any Requests received by the Supplier shall be forwarded to the Authority or Chief Constable immediately.
- 13.3 The provisions of this clause 13 shall extend to sub-contractors and the Supplier shall ensure compliance with this requirement.
- 13.4 The Supplier acknowledges that the Authority and the Chief Constable if applicable may, acting in accordance with the FOIA, or the EIR be obliged to disclose information relating to the Contract:
- (a) without consulting with the Supplier; or
 - (b) following consultation with the Supplier and having taken the Supplier's views into account; or
 - (c) in accordance with legislation and procedural transparency requirements.
- 13.5 Where it is necessary for the Supplier to provide information to the Authority which it believes to be information falling into the exemptions set out in the FOIA ("Exempt Information"), it shall state in writing to the Authority the nature of the information and the relevant exemption. The Authority will use reasonable endeavours to consult with the Supplier before disclosing such information under the FOIA. The Supplier acknowledges that the final decision whether to disclose such information will rest with the Authority and not with the Supplier. Nothing contained in this Contract or any documents or negotiations relating to this Contract shall prevent the Authority from disclosing any information which (in the Authority's reasonable opinion or in accordance with any recommendation, notice or decision of a competent Authority) it is required to disclose under the FOIA.
- 13.6 When requested to do so by the Authority, the Supplier shall promptly provide the information in its possession relating to this Contract and shall assist and co-operate with the Authority to enable it to respond to a Request within the time limit set out in the relevant legislation.
- 13.7 The Supplier shall maintain an adequate records management system which will enable it to access the information within the time limits prescribed.
- 13.8 The Supplier shall indemnify the Authority against all reasonable claims, demands, actions, costs, proceedings and liabilities that the Authority incurs due to the Supplier's or any sub-contractor's breach of this clause 13 or any part of it, save that the Authority shall use all reasonable endeavors to mitigate such losses and expenses.

14. ANTI-BRIBERY AND FRAUD

- 14.1 The Supplier shall not offer or give, or agree to give, to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act relating to obtaining or the signing of the Contract or any other contract with the Authority or any other public body or showing or refraining from showing favour or disfavour to any person, in relation to the Contract or any other Contract with the Authority, or if similar acts have been

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done by any person employed by the Supplier, or acting on the Supplier's behalf (whether with or without the knowledge of the Supplier).

14.2 The Supplier warrants that it has not paid commission or agreed to pay commission to the Authority or any other public body or any person employed by or on behalf of the Supplier or any other public body in connection with the Contract.

14.3 The Supplier shall:

- (a) comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 ("Relevant Requirements");
- (b) not engage in any activity, practice or conduct which would constitute an offence under sections 1, 2 or 6 of the Bribery Act 2010 if such activity, practice or conduct had been carried out in the United Kingdom;
- (c) have and shall maintain in place throughout the term of this Contract its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements and clause 14.3(b), and will enforce them where appropriate;
- (d) promptly report to the Authority any request or demand for any undue financial or other advantage of any kind received by the Supplier in connection with the performance of this Contract;
- (e) immediately notify the Authority if a foreign public official becomes an officer or employee of the Supplier or acquires a direct or indirect interest in the Supplier (and the Supplier warrants that it has no foreign public officials as officers, employees or direct or indirect owners at the date of this Contract); and
- (f) ensure that all persons associated with the Supplier or other persons who are performing services in connection with this Contract comply with this clause 14.

14.4 The Supplier shall not engage in any activity practice or conduct which would constitute an offence under the Prevention of Corruption Acts 1889 to 1916 or Fraud Act 2006.

14.5 The Supplier shall not receive any fee or reward the receipt of which is offence under the sub-section (2) of Section 117 of the Local Government Act 1972.

14.6 Breach of this clause 14 shall entitle the Authority to terminate the Contract with immediate effect.

14.7 In the event of any breach of this clause 14 by the Supplier or by anyone employed by it or acting on its behalf (whether with or without the knowledge of the Supplier):

- (a) upon becoming aware of such breach, the Supplier shall immediately give the Authority full details of any such breach and shall co-operate fully with the Authority in disclosing information and documents which the Authority may request; and/or
- (b) the Authority shall (without prejudice to any of its rights or remedies under this Contract or otherwise) be entitled by notice in writing to terminate this Contract immediately; and
- (c) the Supplier shall be liable for and shall indemnify and keep the Authority and the Chief Constable if applicable indemnified in respect of any and all loss resulting from such termination.

14.8 In any dispute, difference or question arising in respect of:

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- (a) the interpretation of this clause 14; or
- (b) the right of the Authority to terminate this Contract; or
- (c) the amount or value of any gift, consideration or commission

the decision of the Authority shall be final and conclusive.

15. COMPLIANCE WITH ANTI-SLAVERY AND HUMAN TRAFFICKING LAWS

15.1 In performing its obligations under this Contract, the Supplier shall:

- (a) comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015; and
- (b) not engage in any activity, practice or conduct that would constitute an offence under sections 1, 2 or 4, of the Modern Slavery Act 2015 if such activity, practice or conduct were carried out in the UK;
- (c) include in contracts with its direct subcontractors and suppliers provisions which are at least as onerous as those set out in this clause 15.
- (d) notify the Authority as soon as it becomes aware of any actual or suspected slavery or human trafficking in a supply chain which has a connection with this Contract.
- (e) maintain a complete set of records to trace the supply chain of all Goods and Services provided to the Authority in connection with this Contract; and permit the Authority and its third party representatives to inspect the Supplier's premises, records, and to meet the Supplier's personnel to audit the Supplier's compliance with its obligations under this clause 15.

15.2 The Supplier represents and warrants that it not has been convicted of any offence involving slavery and human trafficking; nor has it been the subject of any investigation, inquiry or enforcement proceedings regarding any offence or alleged offence of or in connection with slavery and human trafficking.

15.3 The Authority may terminate this Contract with immediate effect by giving written notice to the Supplier if the Supplier commits a breach of this clause 15.

16. OFFICIAL SECRETS ACT AND CONFIDENTIAL INFORMATION

16.1 The Supplier undertakes to comply with the provisions of the Official Secrets Acts 1911 to 1989. This may include if reasonably requested to do so by the Authority the requirement for the Supplier to have individuals involved in the delivery of this Contract to sign a copy of the Official Secrets Act.

16.2 The Parties shall keep confidential all technical or commercial know-how, specifications, inventions, operational matters, pricing, customer data, processes or initiatives which are of a confidential nature ("Confidential Information") and have been disclosed by one Party (the "Disclosing Party") to the other Party (or its agents) (the "Receiving Party") or acquired by the Receiving Party from the Disclosing Party (or its agents). The Receiving Party shall also keep confidential any other confidential information concerning the Disclosing Party or their business or the fact of this Contract or any document that makes up the Contract. The Receiving Party shall restrict disclosure of the confidential material to those of its employees, agents or subcontractors as need to know the information to enable them to carry out the Receiving Party's obligations to the Disclosing Party and shall ensure that all employees, agents or subcontractors are subject to similar obligations of confidentiality as those imposed on the

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Receiving Party. Under no circumstances without the prior approval of the Disclosing Party shall such information be published, copied, amended or otherwise disclosed to any other persons and the Receiving Party shall ensure that all its subcontractors are also aware of their obligations under this clause.

- 16.3 This clause shall not apply to information to be disclosed by law as long as the Receiving Party shall, to the extent permitted by law and where practicable, notify the Disclosing Party and agree the nature of any such disclosure with the Disclosing Party in advance or which is in the public domain other than by a breach of this clause.
- 19.4 If the Disclosing Party has required the Receiving Party or its sub-contractors or suppliers to sign a mutual confidentiality agreement, the Receiving Party shall comply and procure its sub-contractors or suppliers shall comply at all times with its obligations under that mutual confidentiality agreement.
- 19.5 The previous provisions of this clause shall apply during the continuance of this Contract and after it has been terminated however arising for a period of up to 5 years post termination.