

Safeguarding of Vulnerable Groups and will notify the ESPO immediately of any decision to employ such a person in any role connected with this Framework Agreement or any other agreement or arrangement with ESPO.

- 12.2.5 Where the provision of the Products and Services does not require any of the Supplier's employees or volunteers to work in a Regulated Activity with children and/or vulnerable adults the Supplier will ensure that its staff, subcontractors and agents do not have direct contact with children and vulnerable adults during any delivery or attendance at the premises.

13. STAFFING SECURITY

- 13.1 The Supplier shall comply with the Staff Vetting Procedures in respect of all relevant Supplier Staff employed or engaged in the provision of the Services. The Supplier confirms that all relevant Staff employed or engaged by the Supplier at the Commencement Date were vetted and recruited on a basis that is equivalent to and no less strict than the Staff Vetting Procedures.
- 13.2 The Supplier shall provide training on a continuing basis for all Staff employed or engaged in the provision of the Services to ensure compliance with the Staff Vetting Procedures.

14. TRAINING

- 14.1 The Supplier shall provide training to the Customer's personnel in accordance with Paragraph 3.4 of the Order Form (if any) in respect of the Services
- 14.2 The Contract Charges shall include the cost of any training and instruction of the Customer's personnel in the provision of Services.

15. INTELLECTUAL PROPERTY RIGHTS

- 15.1 Save as granted under this Contract, neither the Customer nor the Supplier shall acquire any right, title or interest in the other's Pre-Existing Intellectual Property Rights.
- 15.2 The Supplier shall ensure and procure that the availability, provision and use of the Services and the performance of the Supplier's responsibilities and obligations hereunder shall not infringe any Intellectual Property Rights of any third party.
- 15.3 With respect to the Supplier's obligations under this Contract, the Supplier warrants and represents that:
- 15.3.1 it owns, has obtained or shall obtain valid licences for all Intellectual Property Rights that are necessary to perform its obligations under this Contract; and
- 15.3.2 it has and shall continue to take all steps, in accordance with Good Industry Practice, to prevent the introduction, creation or propagation of any disruptive elements (including any virus, worms and/or Trojans, spyware or other malware) into systems, data, software or the Customer's Confidential Information (held in electronic form (owned by or under the control of or used by the Customer).
- 15.4 Subject to the Customer acting reasonably to mitigate its loss, Supplier shall during and after the Contract Period of this Contract indemnify and keep indemnified the Customer on demand in full from and against all claims, proceedings, suits, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages and any other liabilities whatsoever arising from, out of, in respect of or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the:
- 15.4.1 availability, provision or use of the Services (or any parts thereof); and

15.4.2 performance of the Supplier's responsibilities and obligations hereunder.

except to the extent that any liability or claim arises as a direct result of the Supplier acting on the instructions of a Customer (other than where those instructions are expressly set out in the Contract); or from Customer breach of any licence conditions included in the Order Form; or from wilful Customer misconduct; or from any use by the Customer of the Intellectual Property Rights in combination with any item not supplied pursuant to this Contract where it is such use in combination that leads to such breach; and provided that the Customer:

- i) gives notice to the Supplier of any such infringement or alleged infringement forthwith upon becoming aware of the same;
- ii) gives the Supplier the sole conduct and control of the defence and any settlement negotiations to any claim or action in respect of such infringement or alleged infringement;
- iii) does not at any time admit liability or otherwise settle or compromise or attempt to settle or compromise the said claim or action except upon the express instructions of the Supplier; and
- iv) acts in accordance with the reasonable instructions of the Supplier and gives the Supplier such assistance as it shall reasonably require in respect of the conduct of the said defence including without prejudice to the generality of the foregoing the filing of all pleadings and other court process and the provision of all relevant documents.

15.5 The Supplier shall promptly notify the Customer if any claim or demand is made or action brought against the Supplier for infringement or alleged infringement of any Intellectual Property Right that may affect the availability, provision or use of the Services (or any parts thereof) and/or the performance of the Supplier's responsibilities and obligations hereunder.

15.6 If a claim or demand is made or action brought to which Clause 15.3 and/or 15.4 may apply, or in the reasonable opinion of the Supplier is likely to be made or brought, the Supplier may at its own expense and within a reasonable time either:

15.5.1 modify any or all of the affected Services without reducing the performance of the same, or substitute alternative services of equivalent performance for any or all of the affected Services, so as to avoid the infringement or the alleged infringement, provided that the terms herein shall apply mutatis mutandis to such modified or substituted services; or

15.5.2 procure a licence to use the Services on terms that are reasonably acceptable to the Customer; and

15.5.3 in relation to the performance of the Supplier's responsibilities and obligations hereunder, where appropriate promptly re-perform those responsibilities and obligations.

16. CUSTOMER DATA

16.1 The Supplier shall not delete or remove any proprietary notices contained within or relating to the Customer Data.

16.2 The Supplier shall not store, copy, disclose, or use the Customer Data except as necessary for the performance by the Supplier of its obligations under this Contract or as otherwise expressly Approved by the Customer.

16.3 To the extent that Customer Data is held and/or processed by the Supplier, the Supplier shall supply that Customer Data to the Customer as requested by the Customer and in the format specified by the Customer.

16.4 To the extent that Customer Data is held and/or processed by the Supplier, the Supplier shall take

responsibility for preserving the integrity of Customer Data and preventing the corruption or loss of Customer Data.

- 16.5 The Supplier shall ensure that any system on which the Supplier holds any Customer Data, including back-up data, is a secure system that complies with the reasonable requirements of the Customer's security policy.
- 16.6 If the Customer Data is corrupted, lost or sufficiently degraded as a result of the Supplier's Default so as to be unusable, the Customer may:
- 16.6.1 require the Supplier (at the Supplier's expense) to restore or procure the restoration of Customer Data and the Supplier shall do so as soon as practicable but in accordance with the time period notified by the Customer; and/or
 - 16.6.2 itself restore or procure the restoration of Customer Data, and shall be repaid by the Supplier any reasonable expenses incurred in doing so.
- 16.7 If at any time the Supplier suspects or has reason to believe that Customer Data has or may become corrupted, lost or sufficiently degraded in any way for any reason, then the Supplier shall notify the Customer immediately and inform the Customer of the remedial action the Supplier proposes to take.

17. PROTECTION OF PERSONAL DATA

- 17.1 With respect to the Parties' rights and obligations under this Contract, the Parties agree that the Customer is the Data Controller and that the Supplier is the Data Processor.
- 17.2 The Supplier shall:
- 17.2.1 process the Personal Data only in accordance with instructions from the Customer (which may be specific instructions or instructions of a general nature as set out in this Contract or as otherwise notified by the Customer to the Supplier during the Contract Period);
 - 17.2.2 process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by Law or any Regulatory Body;
 - 17.2.3 implement appropriate technical and organisational measures to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;
 - 17.2.4 take reasonable steps to ensure the reliability of any Staff who have access to the Personal Data;
 - 17.2.5 obtain Approval in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;
 - 17.2.6 ensure that all Staff required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Clause 17;
 - 17.2.7 ensure that none of the Staff publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Customer;
 - 17.2.8 notify the Customer within two (2) Working Days if it receives:

- 17.2.8.1 a request from a Data Subject to have access to that person's Personal Data; or
- 17.2.8.2 a complaint or request relating to the Customer's obligations under the Data Protection Legislation;
- 17.2.9 provide the Customer with full cooperation and assistance in relation to any complaint or request made, including by:
 - 17.2.9.1 providing the Customer with full details of the complaint or request;
 - 17.2.9.2 complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Customer's instructions;
 - 17.2.9.3 providing the Customer with any Personal Data it holds in relation to a Data Subject (within the timescales required by the Customer); and
 - 17.2.9.4 providing the Customer with any information requested by the Customer.
- 17.2.10 permit the Customer or the Customer Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, the Supplier's data Processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Customer to enable the Customer to verify and/or procure that the Supplier is in full compliance with its obligations under this Contract (such inspections not to be carried out with a frequency likely to cause undue disruption to Service performance without good cause);
- 17.2.11 provide a written description of the technical and organisational methods employed by the Supplier for processing Personal Data (within the timescales required by the Customer); and
- 17.2.12 not process or otherwise transfer any Personal Data outside the European Economic Area. If, after the Commencement Date, the Supplier (or any Sub-contractor) wishes to Process and/or transfer any Personal Data outside the European Economic Area, the Supplier shall promptly notify the Customer and shall
 - 17.2.12.1 ensure an adequate level of protection and adequate safeguards (in accordance with the Data Protection Legislation and in particular so as to ensure the Customer's compliance with the Data Protection Legislation) in respect of the Personal Data that will be Processed and/or transferred outside the European Economic Area and shall
 - 17.2.12.3 comply with then-current Government and Information Commissioner Office policies, procedures, guidance and codes of practice on the Processing and/or transfers of Personal Data outside the European Economic Area and/or overseas generally.
 - 17.2.12.4 In the event that the Supplier or any of its contractors wish to Process and/or transfer any Personal Data outside the European Economic Area, the Supplier shall at its discretion either
 - (a) incorporate standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation) into this Contract or a separate data processing agreement between the parties;

- (b) procuring that any Sub-contractor or other third party who will be Processing and/or transferring the Personal Data outside the European Economic Area enters into a direct data processing agreement with the Customer on such terms as may be required by the Customer, which the Supplier acknowledges may include the incorporation of standard and/or model clauses (which are approved by the European Commission as offering adequate safeguards under the Data Protection Legislation); or
- (c) seek the written consent for such transfer from each relevant data subject

17.3 The Supplier shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Contract in such a way as to cause the Customer to breach any of its applicable obligations under the Data Protection Legislation.

17.4 The Supplier acknowledges that, in the event that it breaches (or attempts or threatens to breach) its obligations relating to Personal Data that the Customer may be irreparably harmed (including harm to its reputation). In such circumstances, the Customer may proceed directly to court and seek injunctive or other equitable relief to remedy or prevent any further breach (or attempted or threatened breach).

17.5 Subject to the Customer acting reasonably to mitigate its loss, the Supplier shall, at all times during and after the Contract Period, indemnify the Customer and keep the Customer indemnified against all losses, damages, costs or expenses and other liabilities (including legal fees) incurred by, awarded against or agreed to be paid by the Customer arising from any breach of the Supplier's obligations under this Clause 17 except and to the extent that such liabilities have resulted directly from the Customer's instructions or from the Customer's negligence or default.

18. CONFIDENTIALITY

18.1 Except to the extent set out in this Clause 18 or where disclosure is expressly permitted elsewhere in this Contract, each Party shall:

18.1.1 treat the other Party's Confidential Information as confidential and safeguard it accordingly; and

18.1.2 not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

18.2 Clause 18.1 shall not apply to the extent that:

18.2.1 such disclosure is a requirement of Law placed upon the Party making the disclosure, including any requirements for disclosure under the FOIA, Code of Practice on Access to Government Information or the Environmental Information Regulations pursuant to Clause 19 (Freedom of Information);

18.2.2 such information was in the possession of the Party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

18.2.3 such information was obtained from a third party without obligation of confidentiality;

18.2.4 such information was already in the public domain at the time of disclosure otherwise than by a breach of this Contract; or

18.2.5 it is independently developed without access to the other Party's Confidential Information.

- 18.3 Both Parties may only disclose the Confidential Information to those who need to know the information, and shall ensure that such individuals or third parties are aware of and shall comply with these obligations as to confidentiality.
- 18.4 Both Parties shall not, and shall procure that any individuals and third parties to whom Confidential Information has been disclosed do not, use any of the Confidential Information received otherwise than for the purposes of this Contract.
- 18.5 At the written request of the Customer, the Supplier shall procure that those members of Staff identified in the Customer's notice sign a confidentiality undertaking prior to commencing any work in accordance with this Contract.
- 18.6 In the event that any default, act or omission of any Staff causes or contributes (or could cause or contribute) to the Supplier breaching its obligations as to confidentiality under or in connection with this Contract, the Supplier shall take such action as may be appropriate in the circumstances, including the use of disciplinary procedures in serious cases. To the fullest extent permitted by its own obligations of confidentiality to any Staff, the Supplier shall provide such evidence to the Customer as the Customer may reasonably require (though not so as to risk compromising or prejudicing any disciplinary or other proceedings to demonstrate that the Supplier is taking appropriate steps to comply with this clause, including copies of any written communications to and/or from Staff, and any minutes of meeting and any other records which provide an audit trail of any discussions or exchanges with Staff in connection with obligations as to confidentiality).
- 18.7 Nothing in this Contract shall prevent the Customer from disclosing the Supplier's Confidential Information (including the Management Information obtained under Clause 6.2):
- 18.7.3 for the purpose of the examination and certification of the Customer's accounts; or
 - 18.7.4 for any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources; or
 - 18.7.5 as required by Law to be provided to any government department or any Customer and the Supplier hereby acknowledges that all Customers receiving such Supplier's Confidential Information may further disclose the Supplier's Confidential Information to other government departments or Customers on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any government department or any Customer.
- 18.8 The Customer shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-contractor to whom the Supplier's Confidential Information is disclosed pursuant to Clause 18.7 is made aware of the Customer's obligations of confidentiality.
- 18.9 Nothing in this Clause 18 shall prevent either party from using any techniques, ideas or Know-How gained during the performance of the Contract in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of IPR.
- 18.10 In the event that either Party fails to comply with Clause 18.1 to Clause 18.5, the Customer or the Supplier as appropriate reserves the right to terminate this Contract with immediate effect by notice in writing.
- 18.11 In order to ensure that no unauthorised person gains access to any Confidential Information or any data obtained in performance of this Contract, the both Parties undertake to maintain adequate security arrangements that meet the requirements of Good Industry Practice.

19. FREEDOM OF INFORMATION

- 19.1 The Supplier acknowledges that the Customer is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Customer to enable the Customer to comply with its Information disclosure obligations.
- 19.2 The Supplier shall and shall procure that its Sub-contractors shall:
- 19.2.1 transfer to the Customer all Requests for Information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a Request for Information;
 - 19.2.2 provide the Customer with a copy of all Information in its possession, or control in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may specify) of the Customer's request; and
 - 19.2.3 provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.
- 19.3 The Customer shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Contract or any other Contract whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations.
- 19.4 In no event shall the Supplier respond directly to a Request for Information unless authorised in writing to do so by the Customer.
- 19.5 The Supplier acknowledges that (notwithstanding the provisions of Clause 18) the Customer may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Supplier or the Services:
- 19.5.1 in certain circumstances without consulting the Supplier; or
 - 19.5.2 following consultation with the Supplier and having taken their views into account, provided always that where Clause 19.5 applies the Customer shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Supplier advanced notice, or failing that, to draw the disclosure to the Supplier's attention after any such disclosure.
- 19.6 The Supplier shall ensure that all Information is retained for disclosure in accordance with the provisions of this Contract and in any event in accordance with the requirements of Good Industry Practice and shall permit the Customer to inspect such records as requested from time to time.
- 19.7 The Supplier acknowledges that the Commercially Sensitive Information is of indicative value only and that the Customer may be obliged to disclose it in accordance with Clause 19.5.

20. TRANSPARENCY

- 20.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Contract is not Confidential Information. The Customer shall be responsible for determining in its absolute discretion whether any of the content of the Contract is exempt from disclosure in accordance with the

provisions of the FOIA

- 20.2 Notwithstanding any other term of this Contract, the Supplier hereby gives his consent for the Customer to publish the Contract in its entirety (but with any information which is exempt from disclosure in accordance with the provisions of the FOIA redacted), including from time to time agreed changes to the Agreement, to the general public.
- 20.3 The Customer shall consult with the Supplier to inform its decision regarding any redactions and shall take due account of the Supplier's representations in respect of the redaction of any of the Supplier's commercially sensitive information but the Customer shall have the final decision in its absolute discretion.
- 20.4 The Supplier shall assist and cooperate with the Customer to enable the Customer to publish this Contract.

21. WARRANTIES AND REPRESENTATIONS

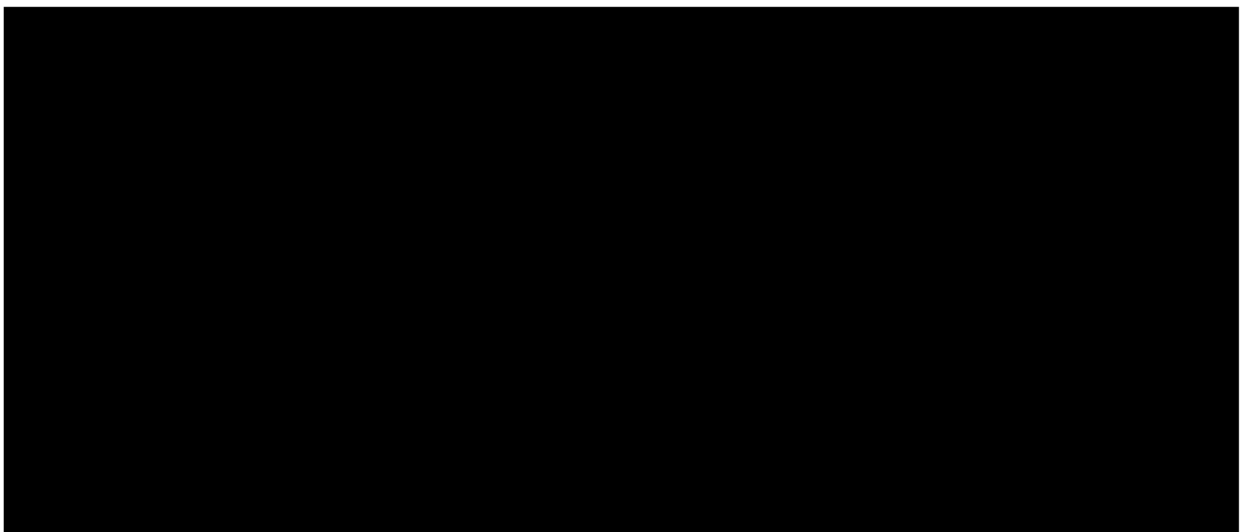
21.1 The Supplier warrants, represents and undertakes to the Customer that:

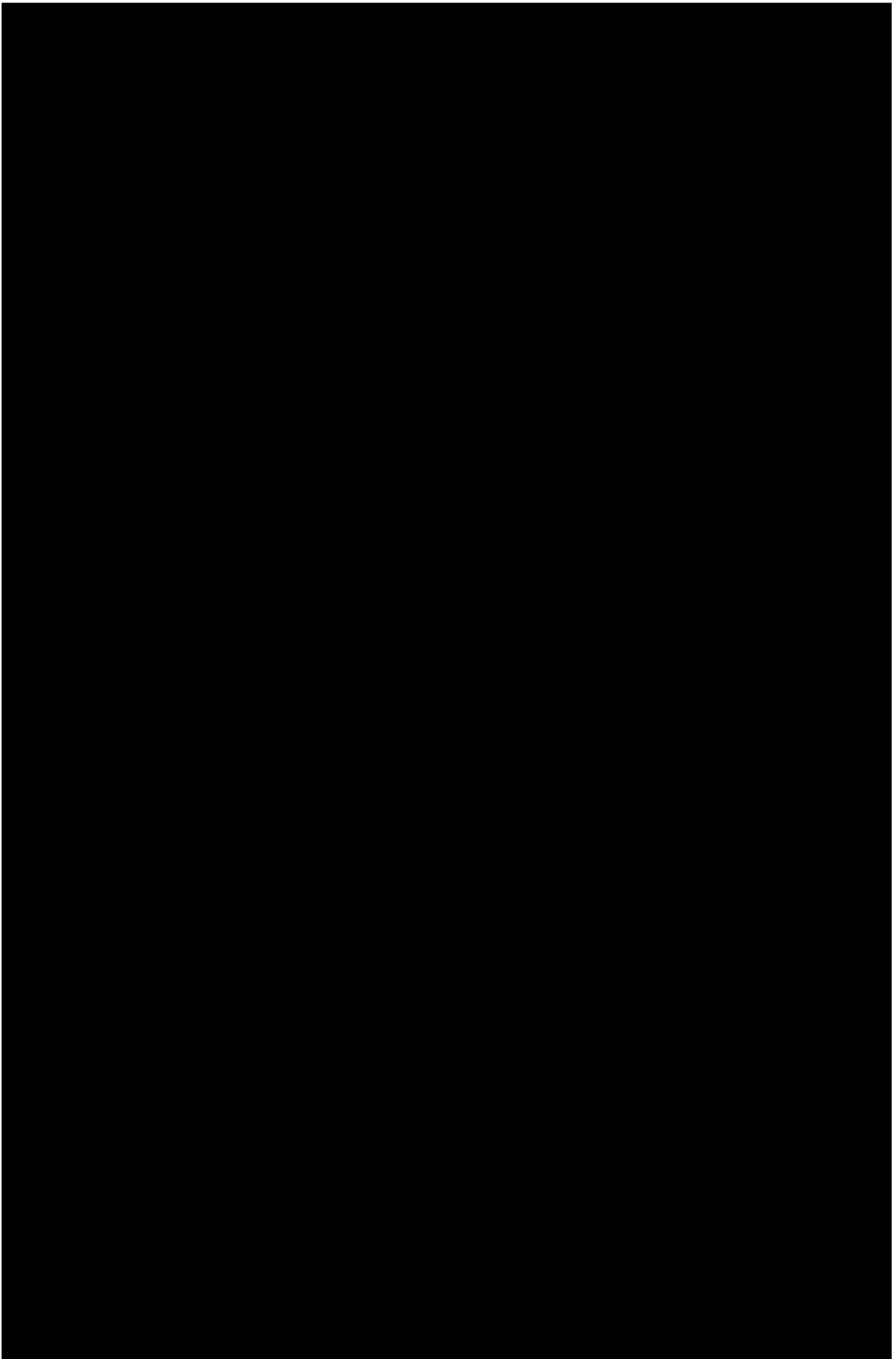
- 21.1.1 it has full capacity and authority and all necessary consents licences, permissions (statutory, regulatory, contractual or otherwise) (including where its procedures so require, the consent of its Parent Company) to enter into and perform its obligations under the Contract;
- 21.1.2 the Contract is executed by a duly authorised representative of the Supplier;
- 21.1.3 in entering the Contract it has not committed any Fraud;
- 21.1.4 it has not committed any offence under the Prevention of Corruption Acts 1889 to 1916, or the Bribery Act 2010;
- 21.1.5 this Contract shall be performed in compliance with all Laws (as amended from time to time) and all applicable Standards;
- 21.1.6 as at the Commencement Date, all information, statements and representations contained in the Tender for the Services are true, accurate and not misleading save as may have been specifically disclosed in writing to the Customer prior to execution of the Contract and it will advise the Customer of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading and all warranties and representations contained in the Tender shall be deemed repeated in this Contract;
- 21.1.7 no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or its assets which will or might affect its ability to perform its obligations under the Contract;
- 21.1.8 it is not subject to any contractual obligation, compliance with which is likely to have an adverse effect on its ability to perform its obligations under the Contract;
- 21.1.9 no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Supplier or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Supplier's assets or revenue; and
- 21.1.10 it owns, has obtained or is able to obtain valid licences for all Intellectual Property Rights that are necessary for the performance of its obligations under the Contract and shall maintain the same in full force and effect.

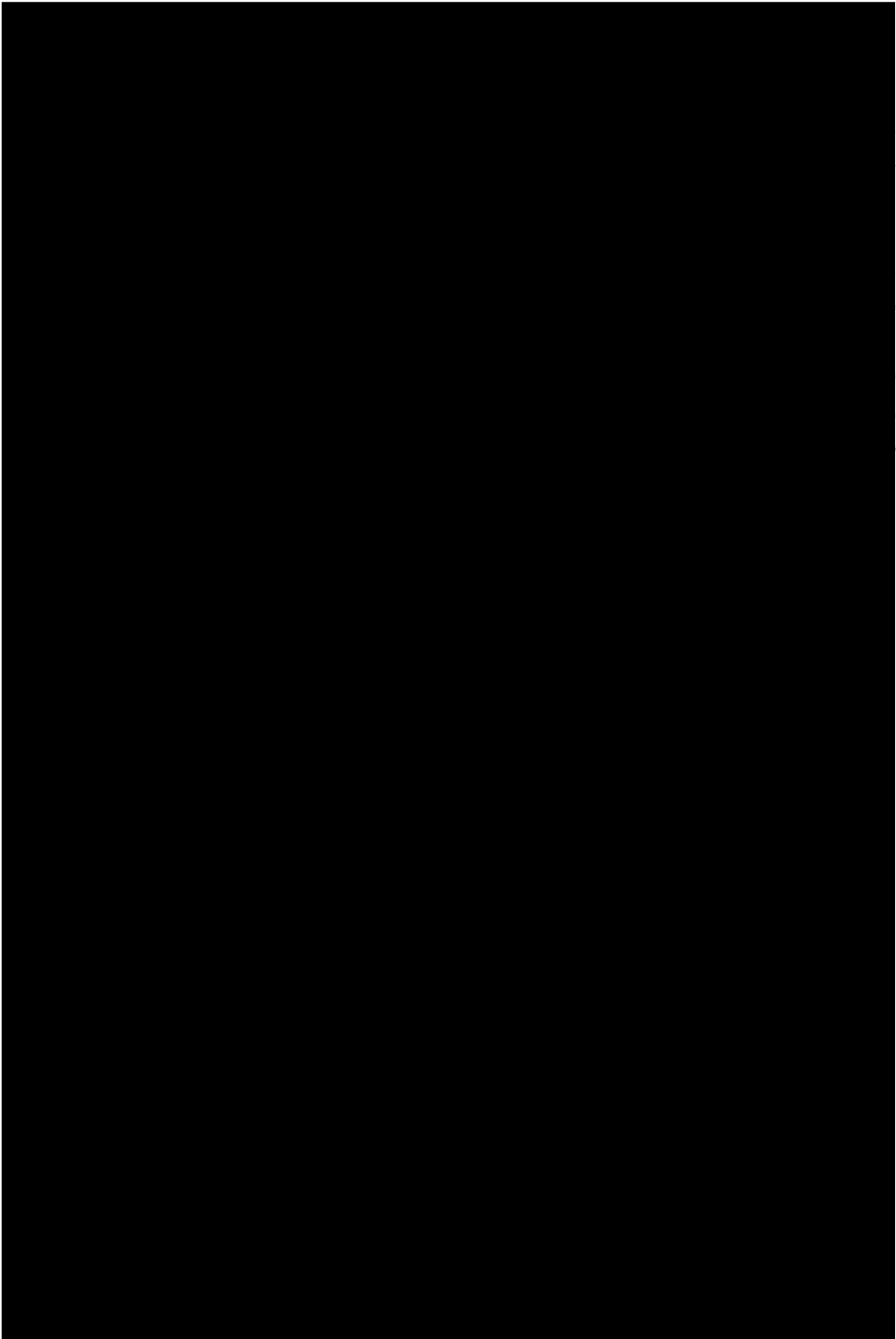
- 21.2 The Supplier warrants represents and undertakes to the Customer that:
- 21.2.1 the Services shall be provided and carried out by appropriately experienced, qualified and trained Staff with all due skill, care and diligence;
 - 21.2.2 it shall discharge its obligations hereunder (including the provision of the Services) with all due skill, care and diligence including in accordance with Good Industry Practice and its own established internal procedures;
 - 21.2.3 the Services are and will continue to be during the Contract Period in conformance with the relevant specifications set out in this Contract and the relevant Order;
 - 21.2.4 in the three (3) Years prior to the Commencement Date:
 - 21.2.4.1 it has conducted all financial accounting and reporting activities in all material respects in compliance with the generally accepted accounting principles that apply to it in any country where it files accounts;
 - 21.2.4.2 it has been in full compliance with all applicable securities and tax laws and regulations in the jurisdiction in which it is established;
 - 21.2.4.3 it has not done or omitted to do anything which could have an adverse effect on its assets, financial condition or position as an ongoing business concern or its ability to fulfil its obligations under the Contract; and
 - 21.2.4.4 for the Contract Period that all Staff will be vetted in accordance with Good Industry Practice, the Customer's security policy and the Quality Standards.
- 21.3 For the avoidance of doubt, the fact that any provision within this Contract is expressed as a warranty shall not preclude any right of termination the Customer may have in respect of breach of that provision by the Supplier.
- 21.4 The Supplier acknowledges and agrees that:
- 21.4.1 the warranties, representations and undertakings contained in this Contract are material and are designed to induce the Customer into entering into this contract; and
 - 21.4.2 the Customer has been induced into entering into this Contract and in doing so has relied upon the warranties, representations and undertakings contained herein.

22. LIABILITIES

22.1 Liability







23. TERMINATION

23.1 23.1 Termination on insolvency

23.1.1 The Customer may terminate the Contract with immediate effect by giving notice in writing to the Supplier where the Supplier is a company and in respect of the Supplier:

23.1.1.1 a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or

23.1.1.2 a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or

23.1.1.3 a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or

23.1.1.4 a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or

23.1.1.5 an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or

23.1.1.6 it is or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986; or

23.1.1.7 being a "small company" within the meaning of section 382(3) of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or

23.1.1.8 any event similar to those listed in Clause 23.1.1.1 to 23.1.1.7 occurs under the law of any other jurisdiction.

23.1.2 The Customer may terminate the Contract with immediate effect by notice in writing where the Supplier is an individual and:

23.1.2.1 an application for an interim order is made pursuant to Sections 252-253 of the Insolvency Act 1986 or a proposal is made for any composition scheme or arrangement with, or assignment for the benefit of, the Supplier's creditors; or

23.1.2.2 a petition is presented and not dismissed within fourteen (14) days or order made for the Supplier's bankruptcy; or

23.1.2.3 a receiver, or similar officer is appointed over the whole or any part of the Supplier's assets or a person becomes entitled to appoint a receiver, or similar officer over the whole or any part of his assets; or

- 23.1.2.4 the Supplier is unable to pay his debts or has no reasonable prospect of doing so, in either case within the meaning of Section 268 of the Insolvency Act 1986; or
 - 23.1.2.5 a creditor or encumbrancer attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of the Supplier's assets and such attachment or process is not discharged within fourteen (14) days; or
 - 23.1.2.6 he dies or is adjudged incapable of managing his affairs within the meaning of Part VII of the Mental Health Act 1983; or
 - 23.1.2.7 the Supplier suspends or ceases, or threatens to suspend or cease, to carry on all or a substantial part of his business.
- 23.2 Termination on Change of Control
- 23.2.1 The Supplier shall notify the Customer immediately if the Supplier undergoes a change of control within the meaning of Section 450 of the Corporation Tax Act 2010 ("Change of Control") and provided this does not contravene any Law shall notify the Customer immediately in writing of any circumstances suggesting that a Change of Control is planned or in contemplation. The Customer may terminate the Contract by notice in writing with immediate effect within six (6) months of:
 - 23.2.1.1 being notified that a Change of Control has occurred or is planned or in contemplation; or
 - 23.2.1.2 where no notification has been made, the date that the Customer becomes aware of the Change of Control,

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.
 - 23.2.2 For the purposes of Clause 23.2.1, the following shall be disregarded any transfer of shares or of any interest in shares by a person to its Affiliate where such transfer forms part of a bona fide reorganisation or restructuring.
- 23.3 Termination on Default
- 23.3.1 The Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if the Supplier commits a Default and if:
 - 23.3.1.1 the Supplier has not remedied the Default to the satisfaction of the Customer within ten (10) Working Days or such other longer period as may be specified by the Customer, after issue of a written notice specifying the Default and requesting it to be remedied; or
 - 23.3.1.2 the Default is not, in the opinion of the Customer, capable of remedy; or
 - 23.3.1.3 the Default is a material breach of the Contract.
 - 23.3.2 In the event that through any Default of the Supplier, data transmitted or processed in connection with the Contract is either lost or sufficiently degraded so as to be unusable, the Supplier shall be liable for the cost of reconstitution of that data and shall reimburse the Customer in respect of any charge levied for its transmission and any other costs charged in connection with such Default of the Supplier.

23.3.3 If the Customer fails to pay the Supplier undisputed sums of money when due, the Supplier shall notify the Customer in writing of such failure to pay. If the Customer fails to pay such undisputed sums within the Undisputed Sums Time Period, the Supplier may terminate the Contract in writing with immediate effect, save that such right of termination shall not apply where the failure to pay is due to the Customer exercising its rights under Clause 10.3 (Recovery of Sums Due).

23.4 Termination without Cause

23.4.1 Subject to the content of Clause 24.2 the Customer shall have the right to terminate the Contract at any time by giving not less than twelve months' written notice to the Supplier.

23.5 Termination of Framework Agreement

23.5.1 The Customer may terminate the Contract by giving written notice to the Supplier with immediate effect if the Framework Agreement is fully or partly terminated for any reason whatsoever other than the termination of the Framework Agreement by ESPO under the terms of the Framework Agreement.

23.6 Termination on Financial Standing

23.6.1 The Customer may terminate this Contract by serving notice on the Supplier in writing with effect from the date specified in such notice where (in the reasonable opinion of the Customer), there is a material detrimental change in the financial standing and/or the credit rating (the minimum value which is 40) of the Supplier which:

23.6.1.1 adversely impacts on the Supplier's ability to supply the Services under this Contract; or

23.6.1.2 could reasonably be expected to have an adverse impact on the Supplier's ability to supply the Services under this Contract.

23.7 Termination on Audit

23.7.1 The Customer may terminate this Contract by serving notice in writing with effect from the date specified in such notice if the Supplier commits a Default of Clauses 29.1 to 29.5 and Clause 29.7 (Records and Audit Access).

23.8 Partial Termination

23.8.1 If the Customer is entitled to terminate this Contract pursuant to this Clause 23, it may (at its sole discretion) terminate all or part of this Contract.

24. CONSEQUENCES OF EXPIRY OR TERMINATION

24.1 Where the Customer terminates the Contract under Clauses 23.3 a) (Termination on Default) and then makes other arrangements for the supply of the Services, the Customer may recover from the Supplier the cost reasonably incurred of making those other arrangements and any additional expenditure incurred by the Customer throughout the remainder of the Contract Period. The Customer shall take all reasonable steps to mitigate such additional expenditure. Where the Contract is terminated under Clauses 23.3 no further payments shall be payable by the Customer to the Supplier until the Customer has established the final cost of making those other arrangements.

24.2 Subject to Clause 23 where the Customer terminates the Contract under Clause 23.1 (Termination

without Cause), the Customer shall indemnify the Supplier against any reasonable and proven commitments, liabilities or expenditure which would otherwise represent an unavoidable direct loss by the Supplier by reason of the termination of the Contract, provided that the Supplier takes all reasonable steps to mitigate such loss. Where the Supplier holds insurance, the Supplier shall reduce its unavoidable costs by any insurance sums available. The Supplier shall submit a fully itemised and costed list of such loss, with supporting evidence, of losses reasonably and actually incurred by the Supplier as a result of termination under Clause 23.1.

24.3 The Customer shall not be liable under Clause 24.2 to pay any sum which:

24.3.1 was claimable under insurance held by the Supplier, and the Supplier has failed to make a claim on its insurance, or has failed to make a claim in accordance with the procedural requirements of the insurance policy; or

24.3.2 when added to any sums paid or due to the Supplier under the Contract, exceeds the total sum that would have been payable to the Supplier if the Contract had not been terminated prior to the expiry of the Contract Period.

24.4 On the termination of the Contract for any reason, the Supplier shall:

24.4.1 immediately return to the Customer all Confidential Information, Personal Data and Customer's Pre-Existing IPRs and the Project Specific IPRs in its possession or in the possession or under the control of any permitted suppliers or sub-contractors, which was obtained or produced in the course of providing the Services;

24.4.2 cease to use the Customer Data and, at the direction of the Customer provide the Customer and/or the Replacement Supplier with a complete and uncorrupted version of the Customer Data in electronic form in a standard format and on media agreed with the Customer and/or the Replacement Supplier;

24.4.3 except where the retention of Customer Data is required by Law, on the earlier of the receipt of the Customer's written instructions or twelve (12) Months after the date of expiry or termination, destroy all copies of the Customer Data and promptly provide written confirmation to the Customer that the data has been destroyed;

24.4.4 immediately deliver to the Customer all Property (including materials, documents, information and access keys) provided to the Supplier under Clause 4.2. Such property shall be handed back to the Customer in good working order (allowance shall be made for reasonable wear and tear);

24.4.5 where permitted transfer to the Customer and/or the Replacement Supplier (as notified by the Customer) such of the licences and third party contracts as are notified to it by the Replacement Supplier and/or the Customer in return for payment of the costs (if any) notified to the Customer by the Supplier in respect of such licences and third party contracts and/or any other items of relevance;

24.4.6 assist and co-operate with the Customer to ensure an orderly transition of the provision of the Services to the Replacement Supplier and/or provide all such assistance and co-operation as the Customer may reasonably require;

24.4.7 return to the Customer any sums prepaid in respect of the Services not provided by the date of expiry or termination (howsoever arising); and

24.4.8 promptly provide all information concerning the provision of the Services which may reasonably be requested by the Customer (taking into account the Supplier's Intellectual Property Rights and the Customer's obligations in respect of Confidential Information) for the purposes of adequately understanding the manner in which the Services have been provided or for the purpose of allowing the Customer or the Replacement Supplier to conduct due diligence.

- 24.5 If the Supplier fails to comply with Clause 24.4.1 and 24.4.8, the Customer may recover possession thereof and the Supplier grants a licence to the Customer or its appointed agents to enter (for the purposes of such recovery) any premises of the Supplier or its permitted agents or Sub-contractors where any such items may be held.
- 24.6 Where the end of the Contract Period arises due to the Supplier's Default, the Supplier shall provide all assistance under Clause 24.4.5 and 24.4.8 free of charge. Otherwise, the Customer shall pay the Supplier's reasonable costs of providing the assistance and the Supplier shall take all reasonable steps to mitigate such costs.
- 24.7 At the end of the Contract Period (howsoever arising) the licence granted pursuant to Clause 9.1 shall automatically terminate without the need to serve notice.
- 24.8 Save as otherwise expressly provided in the Contract:
- 24.8.1 termination or expiry of the Contract shall be without prejudice to any rights, remedies or obligations accrued under the Contract prior to termination or expiration and nothing in the Contract shall prejudice the right of either Party to recover any amount outstanding at the time of such termination or expiry; and
- 24.8.2 termination of the Contract shall not affect the continuing rights, remedies or obligations of the Customer or the Supplier under Clauses 10.2 (Payment and VAT), 10.3 (Recovery of Sums Due), 15 (Intellectual Property Rights), 17 (Protection of Personal Data), 18 (Confidentiality), 19 (Freedom of Information), 22 (Liabilities), 24 (Consequences of Expiry or Termination), 28 (Prevention of Bribery and Corruption), 29 (Records and Audit Access), 30 (Prevention of Fraud), 34 (Cumulative Remedies), 40 (Conflicts of Interest), 42 (The Contracts (Rights of Third parties Act 1999) and 45.1 (Governing Law and Jurisdiction).

25. PUBLICITY, MEDIA AND OFFICIAL ENQUIRIES

- 25.1 The Supplier shall not make any press announcements or publicise the Contract in any way without Approval and shall take reasonable steps to ensure that its servants, agents, employees, sub-contractors, suppliers, professional advisors and Suppliers comply with this Clause 25. Any such press announcements or publicity proposed under this Clause 25 shall remain subject to the rights relating to Confidential Information and Commercially Sensitive Information.
- 25.2 Subject to the rights in relation to Confidential Information and Commercially Sensitive Information, and with the Supplier's prior written approval (such approval not to be unreasonably withheld) the Customer shall be entitled to publicise the Contract in accordance with any legal obligation upon the Customer, including any examination of the Contract by the Auditor.
- 25.3 The Supplier shall not do anything or permit to cause anything to be done, which may damage the reputation of the Customer or bring the Customer into disrepute.

26. HEALTH AND SAFETY

- 26.1 The Supplier shall promptly notify the Customer of any health and safety hazards which may arise in connection with the performance of its obligations under the Contract. The Customer shall promptly notify the Supplier of any health and safety hazards which may exist or arise at the Customer's Premises and which may affect the Supplier in the performance of its obligations under the Contract.
- 26.2 While on the Customer's Premises, the Supplier shall comply with any health and safety measures implemented by the Customer in respect of Staff and other persons working there.
- 26.3 The Supplier shall notify the Customer immediately in the event of any incident occurring in the

performance of its obligations under the Contract on the Premises where that incident causes any personal injury or damage to property which could give rise to personal injury.

26.4 The Supplier shall comply with the requirements of the Health and Safety at Work Act 1974 and any other acts, orders, regulations and codes of practice relating to health and safety, which may apply to Staff and other persons working on the Premises in the supply of the Services under the Contract.

26.5 The Supplier shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Customer on request.

27. ENVIRONMENTAL REQUIREMENTS

27.1 The Supplier shall, when working on the Premises, perform its obligations under the Contract in accordance with the Customer's environmental policy, which is to conserve energy, water, wood, paper and other resources, reduce waste and phase out the use of ozone depleting substances and minimise the release of greenhouse gases, volatile organic compounds and other substances damaging to health and the environment.

28. PREVENTION OF BRIBERY AND CORRUPTION

28.1 The Supplier shall not:

28.1.1 offer or give, or agree to give, to any employee, agent, servant or representative of the Customer, or any other public body or person employed by or on behalf of the Customer, any gift or other consideration of any kind which could act as an inducement or a reward for any act or failure to act in relation to this Contract;

28.1.2 engage in and shall procure that all Supplier's Staff, Suppliers, agents or Sub-contractors or any person acting on the Supplier's behalf shall not commit, in connection with this Contract, a Prohibited Act under the Bribery Act 2010, or any other relevant laws, statutes, regulations or codes in relation to bribery and anti-corruption; and

28.1.3 commit any offences under the Prevention of Corruption Acts 1889 to 1916.

28.2 The Supplier warrants, represents and undertakes that it has not:

28.2.1 paid commission or agreed to pay commission to the Customer or any other public body or any person employed by or on behalf of the Customer or a public body in connection with the Contract; and

28.2.2 entered into this Contract with knowledge, that, in connection with it, any money has been, or will be, paid to any person working for or engaged by the Customer or any other public body or any person employed by or on behalf of the Customer in connection with the Contract, or that an agreement has been reached to that effect, unless details of any such arrangement have been disclosed in writing to the Customer and ESPO before execution of this Contract;

28.2.3 For the avoidance of doubt the Parties agree that the retrospective rebate payable to ESPO in accordance with the Framework Agreement does not constitute a payment of commission for the purposes of this Clause 28.2.

28.3 The Supplier shall:

28.3.1 in relation to this Contract, act in accordance with the Ministry of Justice Guidance pursuant to Section 9 of the Bribery Act 2010;

- 28.3.2 immediately notify the Customer and ESPO if it suspects or becomes aware of any breach of this Clause 28;
- 28.3.3 respond promptly to any of the Customer's enquiries regarding any breach, potential breach or suspected breach of this Clause 28 and the Supplier shall co-operate with any investigation and allow the Customer to audit appropriate Supplier's books, records and any other relevant documentation in connection with the breach;
- 28.3.4 if so required by the Customer, within twenty (20) Working Days of the Commencement Date, and annually thereafter, certify to the Customer in writing of the Supplier and all persons associated with it or other persons who are supplying the Services in connection with this Contract compliance with this Clause 28;
- 28.3.5 have and maintain an anti-bribery policy (which shall be disclosed to the Customer on request) to prevent it any of its Staff, Suppliers, agents or Sub-contractors, or any person acting on the Supplier's behalf from committing a Prohibited Act and shall enforce it where appropriate.

28.4 If the Supplier, its Staff, Suppliers, agents or Sub-contractors or any person acting on the Supplier's behalf, in all cases whether or not acting with the Supplier's knowledge breaches:

- 28.4.1 this Clause 28; or
- 28.4.2 the Bribery Act 2010 in relation to this Contract or any other contract with the Customer or any other public body or any person employed by or on behalf of the Customer or a public body in connection with the Contract,

the Customer shall be entitled to terminate this Contract by written notice with immediate effect.

28.5 Without prejudice to its other rights and remedies under this Clause 28 and to the Customer acting reasonably to mitigate its loss, the Customer shall be entitled to recover in full from the Supplier and the Supplier shall on demand indemnify the Customer in full from and against:

- 28.5.1 the amount of value of any such gift, consideration or commission; and
- 28.5.2 any other loss sustained by the Customer in consequence of any breach of this Clause 28.

save to the extent that such claims are caused due to the negligence or default of the Customer.

29. RECORDS AND AUDIT ACCESS

29.1 The Supplier shall keep and maintain for the prevailing statutory minimum period (which for the avoidance of doubt at the Commencement Date of the Framework Agreement is six (6) years) after the date of termination or expiry (whichever is the earlier) of the Contract (or as long a period as may be agreed between the Parties), full and accurate records and accounts of the operation of the Contract including the Services provided under it, and the amounts paid by the Customer.

29.2 The Supplier shall keep the records and accounts referred to in Clause 29.1 above in accordance with Good Industry Practice and generally accepted accounting principles.

29.3 The Supplier shall afford the Customer and the Auditors reasonable access to the records and accounts referred to in Clause 29.1 (and in any event no more frequent than one routine audit in any year) at the Supplier's premises during normal business hours and with reasonable notice and/or provide copies of such records and accounts, as related to the provision of the Goods and Services, in order that the Customer and/or the Auditors may carry out an inspection including for the following purposes:

- 29.3.1 to verify the accuracy of the Contract Charges (and proposed or actual variations to them in accordance with this Contract), and/or the costs of all Supplier (including Sub-contractors) of the Services;
 - 29.3.2 to review the integrity, confidentiality and security of the Customer Data held or used by the Supplier;
 - 29.3.3 to review the Supplier's compliance with the DPA in accordance with this Contract and any other Laws;
 - 29.3.4 to review the Supplier's compliance with its security obligations set out in Clause 13;
 - 29.3.5 to review any books of account kept by the Supplier in connection with the provision of the Service;
 - 29.3.6 to carry out an examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Customer has used its resources;
 - 29.3.7 to inspect the Customer's assets, including the Intellectual Property Rights, equipment, facilities and maintenance, for the purposes of ensuring that the Customer's assets are secure and that any register of assets is up to date; and/or
 - 29.3.8 to ensure that the Supplier is complying with its obligations under this Contract.
 - 29.3.9 To ensure that the Council is getting value for money on equipment packages and that telecare installations are appropriate and proportionate.
- 29.4 The Supplier shall on request afford the Customer, the Customer's representatives and/or the Auditor access to such records and accounts as may be required by the Customer from time to time, save that the Supplier may withhold personnel records and records which are of a commercially confidential nature.
- 29.6 Where requested by the Customer the Supplier shall provide such records and accounts (together with copies of the Supplier's published accounts) during the Contract Period and for the period specified in Paragraph 11 of the Order Form after the date of termination or expiry of the Contract to the Customer and the Auditor.
- 29.7 The Customer shall use reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Supplier or delay the provision of the Services save insofar as the Supplier accepts and acknowledges that control over the conduct of audits carried out by the Auditor is outside of the control of the Customer.
- 29.8 Subject to the Supplier's rights in respect of Confidential Information, the Supplier shall on demand provide the Auditors with all reasonable co-operation and assistance in relation to each audit, including:
- 29.8.1 all reasonable information requested by the Customer within the scope of the audit;
 - 29.8.2 reasonable access to sites controlled by the Supplier and to Equipment used in the provision of the Services; and
 - 29.8.3 reasonable access to the appropriate Staff.
- 29.9 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 29, unless the audit reveals a material Default by the Supplier in which case the Supplier shall reimburse the Customer for the Customer's reasonable costs incurred in relation to the audit.