

ACIVICO TERMS AND CONDITIONS FOR SUPPLIERS

‘ACIVICO’ refers to one of the following companies:

ACIVICO LIMITED (Company Registration 07792304)

ACIVICO (BUILDING CONSULTANCY) LIMITED (Company Registration 07918763)

ACIVICO (DESIGN, CONSTRUCTION AND FACILITIES MANAGEMENT) LIMITED (Company Registration 07918913)

ACIVICO TRADED SERVICES (Company Registration 12133486)

1. THE CONTRACT BETWEEN US

1.1. This contract is made between you (the “Supplier”) and Acivico (“the Company”) and is described in the purchase order, goods and/or the supply of services (“the Order”), and these Terms and Conditions, (together the “Contract”). Nothing discussed prior to the Supplier’s signature of the Order forms part of the Contract unless it is specifically set out in this Contract. No variations to the Order or these Terms and Conditions shall be permitted or authorised unless the variations are documented and agreed in writing between us (“the Parties”) or individually (“the Party”).

1.2. If the Supplier has already started work, (e.g. supplied goods or are providing the services) then the Supplier agrees that this Contract applies retrospectively from the start of the Supplier’s work.

1.3. The definitions set out in these Terms and Conditions, and in the Order (including in any appendices or enclosures) shall have the same meaning throughout this Contract. If there is a conflict between these Terms and Conditions and the Order, these Terms and Conditions shall prevail.

Commencement, expiry and duration

1.4. The Contract shall begin from the date specified in the Order (“the Commencement Date”) and expire on the date specified in the Order (“the Expiry Date”). Unless the Contract is terminated earlier, the Contract shall be in force from the Commencement Date to the Expiry Date (“the Term”).

1.5. The Company shall nominate a contract manager to act on its behalf (“the Company’s Representative”) for the purposes of managing this Contract.

1.6. The Supplier shall identify to the Company a competent contract manager (“Suppliers Representative”), with full authority to act and deliver on all matters arising under this Contract on behalf of the Supplier.

Contracting parties, assignment, publicity and conflict

1.7. This Contract is between the Company and the Supplier. The Supplier agrees that the Supplier’s relationship is solely with the Company as the entity contracting with the Supplier to receive the goods and/or services in accordance with the Order.

1.8. In entering into this Contract nothing shall be construed as creating a partnership, a contract of employment or a

relationship of principal and agent between the Company and the Supplier.

1.9. The Order is personal to the Supplier and the Supplier shall not assign or transfer or purport to assign or transfer to any other person any of its rights or subcontract any of its obligations under the Contract without first obtaining the written consent of the Company.

1.10. The Supplier agrees that the Supplier shall not advertise or communicate to third parties that the Supplier is providing goods or services to the Company, unless the Supplier has obtained the Company’s prior written consent.

1.11. In entering into this Contract, the Supplier confirms that:

- a) it is not aware of any conflict of interest which may affect the performance of this Contract;
- b) The Company reserves the right to terminate this Contract immediately by giving notice in writing to the Supplier and/or to take such other steps it deems necessary where, in the reasonable opinion of the Company, there is or may be an actual conflict, or a potential conflict, between the Supplier’s pecuniary or personal interests and the duties owed to the Company under the provisions of this Contract. The action of the Company pursuant to this Condition shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Company;
- c) it is not party to any existing or previous arrangement or arrangements which prevent the Supplier from entering into this Contract;
- d) it shall not perform Services or supply Goods similar to, or in the nature of those to be provided under this Contract for any person or body if such performance could in the reasonable opinion of the Company lead to a conflict with the Supplier’s obligations under this Contract;
- e) it shall safeguard the Company against fraud generally and, in particular, fraud on the Supplier’s part or the Supplier’s staff. The Supplier shall notify the Company immediately if the Supplier has reason to suspect that any fraud has occurred or is occurring or is likely to occur. The Company reserves the right to terminate this Contract where fraud has occurred, or in the reasonable opinion of the Company, is likely to occur. The action of the Company pursuant to this Condition shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Company.

2. SPECIFICATION

The scope and or description of the goods and/or services to be supplied to the Company under this Contract (together the "Goods" and/or "Services") are as described in the Order. The Supplier shall use all reasonable efforts to supply the Goods and/or Services in accordance with the Company's requirements specified and any timetable referred to in the Order or otherwise specified by the Company in writing.

Data Protection, Confidentiality and Information

2.1. Where in the performance of the Goods or Services the Supplier is required to process personal data, the Supplier shall comply fully with the Data Protection Act 2018 ("the Act") and all subordinate Legislation including the 6 Data Protection Principles contained in Part 3, Chapter 2 of the Act, at all times. Where necessary the Company may require the Supplier to enter into a separate data processing agreement, in the form as may be supplied by the Company.

2.2. Where the Supplier is in possession of information about the Company that is by its nature confidential, or is designated as such by the other (whether in writing or orally), including this Contract ("Confidential Information"), the Supplier undertakes to: -

- i) keep it confidential;
- ii) use it only in connection with providing the Goods or Services; and
- iii) not to disclose it to any other person without the Company's prior written consent.

2.3. The Supplier will be entitled to disclose Confidential Information: -

2.3.1. that is reasonably required by persons engaged in the performance of its obligations under the Contract;

2.3.2. any Confidential Information which a Party can demonstrate is already generally available and in the public domain otherwise than as a result of a breach of Condition 2.2;

2.3.3. any disclosure to enable a determination to be made under the Condition 9 (Dispute Resolution);

2.3.4. any disclosure which is required by any Legislation (including any order of a court of competent jurisdiction), and Parliamentary obligation or the rules of any stock exchange or governmental or regulatory authority having the force of law;

2.3.5. any disclosure of Confidential Information which is already lawfully in the possession of the receiving Party, prior to its disclosure by the disclosing Party;

2.3.6. any disclosure by the Company of Confidential Information relating to the provision of Goods or Services and such other information as may be reasonably required for the purpose of conducting a due diligence exercise for any proposed successor Supplier should the Company decide to re-tender the Contract;

2.3.7. disclosure to a Party's professional advisers; or

2.3.8. any disclosure by the Company under the Freedom of Information Act 2000.

2.4. The Supplier shall return to the Company any data and Confidential Information belonging to the Company in the Supplier's possession, power or control, either in its then current format or in a format nominated by the Company (in which event the Company will reimburse the Supplier's reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Company.

Access to Information Legislation

2.5. The Parties recognise and accept that the Company is a Public Authority for the purposes of Access to Information Legislation, including the provisions of the Freedom of Information Act 2000 and Environmental Information Regulations 2004, and is obliged to disclose information held by itself, or on its behalf, unless the information falls under one or more exemptions, and that the Company may be required to disclose the information where the public interest test lies in disclosure.

2.6. In the event that the Supplier receives either: -

- i) a request under the Access to Information Legislation; or
- ii) request for an internal review in respect of a decision not to disclose information requested under the Access to Information Legislation, where the information requested is deemed to be exempt from disclosure,

where the requests relate to information of Personal Data processed in the course of carrying out its obligations under this Contract, the Supplier shall within 2 working days of the receipt of either request for either the information or a request for an internal review against a decision to withhold information requested under the Access to Information Legislation, notify the Company with details of the request.

2.7. In the event that the Company receives either: -

- i) a request under the Access to Information Legislation; or
- ii) a request for an internal review in respect of a decision not to disclose information requested under the Access to Information Legislation, where the information requested is deemed to be exempt from disclosure, where the requests relate to information of Personal Data processed in the course of carrying out its obligations under this Contract, the Company shall within 2 working days of the receipt of either request for either the information or a request for an internal review against a decision to withhold information requested under the Access to Information Legislation, notify the Supplier with details of the request.

2.8. The Supplier shall provide the Company with a copy of all information in its possession or power in the form that the Company requires within 5 Working Days (or such other period as the Company may specify) of the Company requesting that information from the Supplier.

2.9. Following the Company notifying the Supplier of the request or asking the Supplier to provide comments, the Supplier shall provide any such comments, with detailed reasoning, within 5 working days (or other such period as the Company may specify), as to what Confidential Information, if any,

should be withheld and the reasons why, to allow the Company to consider the public interest considerations applicable under the relevant Access to Information Legislation.

2.10. In the event that such comments, with detailed reasoning are not received within the 5 working days, the Company shall be entitled to consider the applicability of an exemption without further reference to the Supplier, save for the provisions of Condition 2.11.

2.11. The Company shall provide to the Supplier, no less than 3 working days prior to the release of any information requested, a copy of the response to the request.

2.12. The Company shall be responsible for determining at its absolute discretion whether any information:

- i) Is exempt from disclosure in accordance with the provisions of the Access to Information Legislation;
- ii) Is to be disclosed in response to a request and in no event shall the Supplier respond directly to a request unless expressly authorised to do so by the Company.

2.13. The Supplier shall ensure that all information produced in the course of this Contract or relating to the Contract is retained for disclosure and shall permit the Company to inspect such records as requested from time to time.

2.14. The Supplier acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Company may nevertheless be obliged to disclose the Confidential Information.

Transparency

2.15. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the text of this Contract, and any Schedules to this Contract, are not confidential information. The Company shall be responsible for determining in its absolute discretion whether any part of the Contract or its Schedules is exempt from disclosure in accordance with the provisions of the FOIA.

2.16. Notwithstanding any other term of this Contract, the Supplier hereby gives its consent for the Company to publish this Contract and its Schedules in their entirety including from time to time agreed changes to the Contract, to the general public in whatever form the Company decides.

Marking of Tender Documents

2.17. If the Supplier considers that any other part of its tender (other than price) apart from Parts entitled "Payment by BACS", "Financial References Authority", "Statement of Insurance Cover", "Tenderer's Proposals/Method Statement" and "Tender Pricing Summary" is confidential it should appropriately mark that part of its document and explain the justification for so doing. It would in all circumstances be inappropriate merely to mark all parts of a tender as confidential. In law confidentiality will not arise by simply marking a document confidential.

3. COMPANY'S RESPONSIBILITIES

3.1. The Company shall issue an Order containing the instructions, specification and/or scope of the Goods or Services to be provided.

3.2. The Company may specify the requirements as to performance of the Goods or Services, the timetable, the level of Charges or fees to be paid, in the Order or separately in writing following the Supplier's acceptance of the Order in accordance with Condition 4.2.

3.3. The Company shall be entitled to, but not required to, order the provision of Goods or Services at any time during the Contract Term.

3.4. The Company shall make payment for Goods delivered or Services rendered in accordance with Condition 7.

3.5. The Company shall make known to the Supplier all requirements concerning the conduct of the Supplier at the Company's premises and the Supplier shall ensure compliance with all such requirements and shall otherwise act at all times in a lawful and proper manner.

3.6. If required, the Company may assist the Supplier in performing the Goods or Services by:

- i) taking decisions and obtaining management approvals promptly; and
- ii) give the Supplier full and prompt access to the Company's personnel and premises, together with all necessary administrative support;
- iii) obtain any approvals, licences and security clearances promptly (including any relating to third parties, and any subcontractors); and
- iv) keep the Supplier promptly informed of any proposals or developments affecting the provision of Goods or the Services to be provided under this Contract.

3.7. The Company shall monitor the performance of the Contract throughout the Term and may specify the frequency of meetings, submission of performance reports, records and any other relevant information required to effectively monitor the Supplier's performance, either in the Order or separately, in writing following acceptance of the Order.

4. SUPPLIERS'S RESPONSIBILITIES

4.1. The Supplier shall provide the provision of Goods or Services with all due care, skill and ability and use best endeavours to promote the interests of the Company.

4.2. The Order will lapse unless unconditionally accepted by the Supplier in writing within seven days of its date.

4.3. Where the Company does not or cannot specify the method of working, the Supplier shall endeavour to determine the best method and shall endeavour to provide the provision of Goods or Services in the most effective way.

4.4. The Supplier shall comply with the Health and Safety at Work Act 1974, the Management of Health and Safety at

Work Regulations, and all Legislation relating to health and safety in the performance of this Contract.

Equality Act 2010 and Equality Policy

4.5. The Supplier shall adopt a policy to comply with all statutory obligations under the Equality Act 2010 and with all regulations and Codes of Practice, made under the Equality Act 2010.

Business Charter

4.6. Where instructed by the Company, the Supplier shall comply with the Birmingham Business Charter and Social Responsibility available at <https://www.birmingham.go.uk>.

Goods

4.7. The Supplier shall in the provision of Goods:

- 4.7.1. supply to the Company the quantities of Goods stated in the Order or as may be specified elsewhere in writing;
- 4.7.2. exercise all the skill, care and diligence in the discharge of the supply of the Goods to be expected of an appropriately qualified competent supplier experienced in carrying out the supply of the relevant nature, size, scope and complexity as described in the Order;
- 4.7.3. ensure that the Goods delivered maintain the standards set out in the Order;
- 4.7.4. deliver the Goods to the premises identified on the Order.
- 4.7.5. execute all Orders with reasonable dispatch, or by the time specified (if time is specified) in the Order.
- 4.7.6. Provide all necessary labour, materials and equipment required for the off-loading and placing in position of any Goods.
- 4.7.7. shall supply a delivery note, quoting the Order number with all Goods supplied.
- 4.7.8. The Goods shall be transported and off loaded at the sole risk of the Supplier.
- 4.7.9. The Goods shall be at the Suppliers risk until delivery in accordance with the Order.
- 4.7.10. Title in the Goods shall pass to the Company on delivery of the Goods in accordance with Condition 4.8.9 above

4.8. The Company shall at all times have full power to inspect the Goods at all stages of the manufacture and shall be at liberty at all such times to reject any Goods which do not comply with this Contract. If the Company fails to reject Goods this shall not constitute an acceptance or prejudice the Company's right to reject Goods after delivery.

4.9. In the event that the Supplier fails to deliver the Goods at the agreed time or fail to perform an obligation under this Contract the Company may recover from the Supplier for late performance or non-performance liquidated damages, and not by way of penalty, a sum equivalent to the additional cost incurred by the Company as a direct result of such late performance, provided that the sum so recoverable shall be directly attributable to that part of this Contract that is the subject of the late or non-performance.

4.10. The Company may cancel any specific Orders issued against this Contract if delivery of any Goods has not been made within the time prescribed under this Contract.

4.11. In the event the Company elects to cancel an Order or any part of it the Company shall not be liable to the Supplier for such cancellation.

4.12. Goods supplied in accordance with this Contract must comply at the time of their supply with:

- 4.12.1.1. the express terms of this Contract;
- 4.12.1.2. any applicable implied conditions, warranties and terms contained in the Sale of Goods Act 1979 and the Supply of Goods and Services Act 1982 and any related statutes and any re-enactments or modifications;
- 4.12.1.3. all applicable European Union Directives relevant and applicable to the Goods and to the extent that they are applicable all Goods supplied must be endorsed as being fully compliant with such standards by the application of the CE mark in a position on the Goods which shall meet the requirements of the applicable European Union Directive;
- 4.12.1.4. any specification of the British Standards Institute (or equivalent) which is relevant to the Goods at the time of supply.

Services

4.13. In the provision of Services, the Supplier confirms that: -

- 4.13.1. it is a Supplier having the service expertise specified in the Order and the Supplier agrees to perform the Services in accordance with the instructions of the Company and to comply with Terms and Conditions of this Contract;
- 4.13.2. it shall exercise all the skill, care and diligence in the discharge of the Services to be expected of an appropriately qualified competent Supplier experienced in carrying out Services of the relevant nature, size, scope and complexity as described in the Order;
- 4.13.3. shall comply promptly with all reasonable instructions given to the Supplier by the Company on any matter connected with the Services;
- 4.13.4. Service deliverables (including all records, reports, documents, papers, drawings, designs, transparencies, photos, graphics, logos, typographical arrangements, software programmes, inventions, ideas, discoveries, developments, improvements or innovations and all materials in whatever form, including but not limited to hard copy and electronic form), ("the Deliverables") prepared by the Supplier in connection with the provision of the Goods or Services shall be supplied in a timely manner or in accordance with the time specified in the Order (if so specified).
- 4.13.5. The Company shall use Deliverables for the purpose stated in the Order and shall reasonably seek the express consent of the Supplier where it seeks to use it for any other purpose.

Staff

- 4.14. The Supplier shall engage appropriately qualified, experienced and competent staff in the delivery of the Goods and/or performance of the Services. The Company may at any time require the replacement of any personnel where his or her performance or conduct is or has been unsatisfactory. The Supplier shall remove and replace promptly the person specified.
- 4.15. The Supplier shall give to the Company, if so requested, full particulars of all persons who are or may be at any time engaged in the performance of this Contract.
- 4.16. The Supplier shall be entirely responsible for the employment and conditions of service of the staff engaged for the purpose of this Contract.
- 4.17. When instructed by the Company the Supplier shall ensure:
- - a) that all individuals involved in the provision of the Goods or Services, are subject to a valid [enhanced] disclosure check undertaken through the Disclosure and Barring Service established under the Protection of Freedoms Act 2012, including a check against the adults' barred and the children's barred list, as appropriate; and
 - b) that the level and validity of checks is monitored for each individual.

5. NOTICE

- 5.1. Any notice given under this Contract shall be in writing and signed by or on behalf of the Party giving it and shall be served by delivering it personally, or sending it by pre-paid recorded delivery or registered post to the relevant Party at the address identified by the respective Parties or by sending it by fax to the fax number notified by the relevant Party.
- 5.2. Any such notice shall be deemed to have been received: -
- a) if delivered personally, at the time of delivery;
 - b) in the case of pre-paid recorded delivery or registered post, [48] hours from the date of posting, or
 - c) in the case of fax, at the time of transmission
 - d) in the case of electronic mail, at the time of transmission.
- 5.3. In providing such service it shall be sufficient to prove that the envelope containing such notice was addressed to the address of the relevant Party and delivered either to that address or into the custody of the postal authorities as a pre-paid recorded delivery or registered post (or that the notice was transmitted by fax to the fax number of the relevant Party).
- 5.4. Either Party may change its address for service by serving a notice in accordance with this Condition.
- 5.5. For the purposes of Condition 5.1 the address of the Parties shall be that contained in the Order.

Ownership and intellectual property

- 5.6. The copyright and all other intellectual property and proprietary rights whatsoever ("Intellectual Property Rights") in any document, material, idea, data or other information (including systems and methodologies, reports, preparatory works, drafts, working papers, correspondence and advice, patents, trademarks, designs, design rights, copyright, inventions, trade secrets, know-how and confidential information)) developed by the Supplier in connection with the performance of the provision of Goods or Services shall vest in the Company upon the date of such production or provision. Where such IPR rights cannot be transferred, the Supplier shall ensure that the Company has a royalty free licence to permit it to utilise such information. The Supplier shall do all things reasonably necessary at the Company's request to perfect such vesting, both during and after the expiry of this Contract.
- 5.7. Condition 5.6 shall not apply to intellectual property rights not created by the Supplier at the request of the Company or specifically for the purpose of performing the provision of Goods or Services and shall not, subject to Conditions 2.2, 2.3, 2.4, 2.15 and 2.16 operate to prevent the Supplier from making use of the principles and ideas created or produced by the Supplier in any document, material, idea, data or other information, (including systems and methodologies, reports, preparatory works, drafts, working papers, correspondence and advice), except those created or supplied by the Company, in future assignments or in relation to potential future assignments.
- 5.8. Where pre-existing deliverables are incorporated into the provision of Goods or Services, the Company has a non-exclusive irrevocable worldwide royalty free licence to use, modify and distribute such pre-existing works, for the purposes of this Contract only.
- 5.9. The Supplier hereby assigns to the Company all existing and future IPR in the Deliverables and all materials embodying these rights to the fullest extent permitted by law. Insofar as they do not vest automatically by operation of law or under this Contract, the Supplier holds legal title in these rights on trust for the Company.
- 5.10. The Supplier undertakes:
- a) not to register nor attempt to register any of the IPR in the Deliverables unless requested to do so by the Company; and
 - b) to do all acts necessary to confirm that absolute title in all IPR in the Deliverables has passed, or will pass, to the Company.
- 5.11. The Supplier warrants that:
- a) the Supplier has not given and will not give permission to any third party to use any of the Deliverables nor any of the IPR in the Deliverables;
 - b) the Supplier is unaware of any use by any third party of any of the Deliverables or IPR in the Deliverables; and
 - c) the use of the Deliverables or the IPR in the Deliverables by the Company will not infringe the rights of any third party.

5.12. Notwithstanding any other provision of this Contract, and for the avoidance of doubt, nothing in this Contract shall operate to give any right of ownership or use of the methods and systems employed by the Company.

5.13. The Supplier agrees to indemnify the Company and keep it indemnified at all times against all or any costs, claims, damages or expenses incurred by the Company, or for which the Company may become liable, with respect to any intellectual property infringement claim or other claim relating to the Deliverables supplied by the Supplier to the Company during the course of the providing the Goods or Services.

5.14. The Supplier acknowledge that no further remuneration or compensation other than that provided for in this Contract is or may become due to the Supplier in respect of the performance of the Supplier's obligations under these Conditions 5.6 to 5.14.

6. LIABILITY AND INSURANCE PROVISIONS

6.1. The Supplier will perform the provision of Goods and Services with reasonable skill and reasonable care.

6.2. The Supplier shall have liability for and shall indemnify the Company against any and all direct losses, and losses arising out of any claims, demands fines, penalties, actions, investigations or proceedings and costs (including reasonable legal costs), arising out of the negligent performance or non-performance of the provision of Goods or Services and shall accordingly maintain in force during the Contract Term full and comprehensive insurance policies.

6.3. Subject to the provisions of Condition 6.2 above, neither Party shall have any liability to the other under, or in connection with this Contract howsoever arising in respect of indirect or consequential loss or damage however caused.

6.4. The Supplier shall take out and maintain for the duration of the Services with reputable insurers: -

- a) Public liability insurance of an appropriate level for any one event or series of connected events; and/or
- b) Professional indemnity insurance of an appropriate level of per annum in aggregate of all claims in connection with this Contract or otherwise; and/or
- c) Employers' liability insurance as required by the Employers' Liability (Compulsory Insurance) Act 1969, as amended

6.5. In any event, or notwithstanding any other term in this Contract, the Suppliers liability in contract, tort (including negligence or statutory duty) or otherwise arising by reason of or in connection with this Contract (except in relation to death or personal injury caused by negligence) shall be limited in aggregate per year to:

- a) Where under the terms of Condition 6.4 or otherwise under this Contract, the Supplier are obliged to hold insurance in respect of the matter from which the liability arises, the insurance levels set by the Supplier

under Condition 6.4 or otherwise required under this Contract;

- b) In respect of matters for which the Supplier are not obliged to hold insurance under the terms of Condition 6.4, or otherwise under this Contract, the Price payable by the Company to the Supplier in the year in which the liability arises.

6.6. The Company's liability in contract, tort (including negligence or statutory duty) or otherwise arising by reason of or in connection with this Contract (except in relation to death or personal injury caused by negligence) shall be limited to in aggregate per year to [one hundred per cent (100%) of the Fee] payable by the Company to the Supplier in the year in which the liability arises.

6.7. For the purposes of Conditions 6.4 and 6.5 "year" shall mean the period of 12 months from the Commencement Date or any anniversary thereof.

6.8. The Supplier shall on request supply to the Company copies of the insurance policies and evidence that the relevant premiums have been paid.

7. PRICE AND PAYMENT

7.1. The Company shall pay the fee ("the Price") for the Goods or Services to the Supplier as stated in the Order or in any subsequently agreed Variation.

7.2. The Supplier may invoice the Company on or at any time after delivery of the Goods or performance of the Services, as the case may be, and each invoice shall quote the number of the Order.

7.3. Payment of any undisputed invoice will be made no later than thirty (30) days following the date of receipt of the invoice by the Company.

7.4. The Company reserves the right to withhold payment of the relevant part of the Price without payment of interest where the Supplier have either failed to provide the provision of Goods or Services at all or have provided the Services inadequately and any invoice relating to such Goods or Services will not be paid unless or until the Goods or Services have been performed to the Company's satisfaction.

7.5. The Supplier is not entitled to suspend provision of the Goods or Services as a result of any overdue sums.

7.6. The Company may set off against the Price any sums owed to the Company by the Supplier.

8. TERMINATION

8.1. Subject to the provisions of condition [10] (Force Majeure) the Company may terminate the Contract with immediate effect by notice in writing to the Supplier on or at any time if the Supplier: -

- a) becomes bankrupt, insolvent, makes any composition with its creditors, has a receiver appointed under the Mental Health Act 1983 or dies;
- b) are convicted of a criminal offence;
- c) ceases or threatens to cease to carry on the Supplier's business;
- d) has a change in Control which the Company believes will have a substantial impact on the performance of the Contract;
- e) there is a risk or a genuine belief that there is a risk that reputational damage to the Company will occur as a result of the Contract continuing;
- f) is in breach of any of the Supplier's obligations under this Contract that is capable of remedy and which has not been remedied to the satisfaction of the Company within 14 days, or such other reasonable period as may be specified by the Company after issue of a written notice specifying the breach and requesting it to be remedied;
- g) there is a material or substantial breach by the Supplier of any of the Supplier's obligations under this Contract which is incapable of remedy; or
- h) the Supplier commits persistent minor breaches of this Contract whether remedied or not.

8.2. The Company reserves the right to terminate the Contract in part in the case of termination under Conditions 8.1 (f), (g) and (h).

8.3. The Company has the right to terminate any individual Order or Orders or the whole Contract under the provisions of Condition 8.1.

8.4. The Company reserves the right to terminate the Contract at will, in whole or in part, at any time with or without notice except that it will give as much notice as possible in the circumstances.

Prevention of Corruption

8.5. The Company shall be entitled forthwith to terminate this Contract by delivery of written notice to the Supplier if the Supplier shall have: -

- a) offered, promised or given a financial or other advantage to another person; and either:
- b) the Supplier intended the advantage to induce a person to perform improperly a relevant function or activity in relation to the obtaining or execution of the Contract or any other contract with the Company; or
- c) The Supplier knows or believes that the acceptance of the advantage would itself constitute the improper performance of the relevant function or activity in relation to the obtaining or execution of the Contract or any other contract with the Company; or
- d) If the like act or acts shall have been done by any person employed by the Supplier or associated with the Supplier (whether with or without the Supplier's knowledge); or e) If in relation to any contract with the Company the Supplier or any person employed by the Supplier or associated with the Supplier shall have:-
 - i) committed an offence or offences under the Bribery Act 2010; or

- ii) given any fee or reward to an officer of the Company the acceptance of which is an offence under Section 117(2) Local Government Act 1972.

8.6. Such termination shall not affect the continuing application of any provisions of the Contract, which are expressed as or are capable of having effect after the termination of the Contract.

Consequences of Termination

8.7. If this Contract is terminated in whole or in part the Company shall:

- a) only be liable to pay to the Supplier for such elements of the Price, if any, that have properly accrued in accordance with the Contract or the affected part of the Contract up to the time of the termination; and/or
- b) except for termination under Condition 8.1 (d), be entitled to deduct from any sum or sums which would have been due from the Company to the Supplier under this Contract or any other contract and to recover the same from the Supplier as a debt any sum in respect of any loss or damage to the Company resulting from or arising out of the termination of this Contract. Such loss or damage shall include the reasonable cost to the Company of the time spent by its officers in terminating the Contract and in making alternative arrangements for the supply of the provision of Goods or Services or any parts of them; and/or
- c) where termination arises under Condition 8.1 (d), pay the Supplier for any reasonable, direct and quantifiable costs reasonably incurred by the Supplier due to early termination subject to the maximum liability provision in Condition 6.5 and/or
- d) in the event that any sum of money owed by the Supplier to the Company (the Supplier's debt) exceeds any sum of money owed by the Company to the Supplier (the Company's debt) under this Contract then the Company shall, at its sole discretion, be entitled to deduct the Supplier's debt from any future Council's debt or to recover the Supplier's debt as a civil debt.

8.8. Upon the termination of the Contract for any reason, subject as otherwise provided in this Contract and to any rights or obligations which have accrued prior to termination, neither Party shall have any further obligation to the other under the Contract.

Termination by the Supplier

8.9. If the Company shall fail to pay to the Supplier any sum due under this Contract and the Company shall fail to remedy such breach within [28 days] of the service of a written notice upon the Company specifying such breach then the Supplier shall be entitled to terminate this Contract by [28 days] written notice to the Company.

Consequences of Termination by the Supplier

8.10. If the Supplier shall terminate this Contract under Condition 8.9 the Supplier shall be entitled to receive: - a) payment for the performance of the Services up to the date of termination; and b) any direct loss and/or expense arising out of the termination of the Contract.

9. DISPUTE RESOLUTION

- 9.1. If a dispute arises between the Company and the Supplier in connection with this Contract, the Company's Representative and the Supplier's Representative shall each use reasonable endeavours to resolve such dispute by means of prompt discussion.
- 9.2. If a dispute is not resolved within fourteen (14) days of referral under Condition 9.1 then either party may refer it to a senior manager or appropriate nominated officer of each Party for resolution who shall meet for discussion within 14 days or longer period as the parties may agree.

Mediation

- 9.3. If any dispute is not resolved under Conditions 9.1 & 9.2, either of the Parties may initiate mediation by giving an Alternative Dispute Resolution ("ADR Notice") to the other in writing requesting mediation. A copy of the ADR Notice shall also be sent to Centre for Effective Dispute Resolution (CEDR).
- 9.4. The Procedure in the CEDR's Model Procedure shall be amended to take account of: - any relevant provision in this Contract; and any other additional agreement which the Parties may enter into in relation to the conduct of the mediation.
- 9.5. The Procedure in the CEDR's Model Procedure shall be amended to take account of: - any relevant provision in this Contract; and any other additional agreement which the Parties may enter into in relation to the conduct of the mediation.
- 9.6. The mediation will start not later than 4 weeks after the date of the ADR Notice.
- 9.7. Neither of the Parties may terminate the mediation until each of the Parties has made its opening presentation and the mediator has met each of the parties separately for 1 hour. Thereafter Paragraph 14 of the Model Procedure will apply.

10. GENERAL TERMS

Force majeure

- 10.1. Neither Party shall be liable for failure to perform its obligations under the Contract if such failure results from any event or occurrence which is outside the reasonable control of the Party concerned and which is attributable to any act or failure to take preventative action by that Party including strike, lock-out, fire, explosion or accident or any stoppage of either Party's business or work beyond the Party's control or any other event or circumstance (whether arising from natural causes human agency or otherwise) beyond the control of the Party concerned ("Force Majeure").
- 10.2. If the Company or the delivery location is affected by circumstance of Force Majeure, the Company shall be entitled to, totally or partially, suspend the date or dates for delivery of the Goods or Services until the circumstances of the Force Majeure have ceased. The suspension shall not

give rise to any claim by the Supplier against the Company nor entitle the Supplier to terminate the Contract.

- 10.3. Industrial action by, or illness or shortage of the Supplier's staff, agents or subcontractors, failure or delay by any of the Supplier's suppliers to supply goods, components, services or materials and breach of any of the Supplier's warranties under Conditions 1.11, 4.8 and 4.18 shall not be regarded as an event of Force Majeure.
- 10.4. If the event of Force Majeure continues for more than two (2) months either Party may give written notice to the other to terminate the Contract immediately or on a set termination date.
- 10.5. If the Contract is terminated in accordance with Condition 10.4 neither Party will have any liability to the other except that any rights and liabilities which accrued prior to termination will continue to exist.

Governing law jurisdiction

- 10.6. The Contract and our relationship are governed by and interpreted in accordance with English law. A claim may only be brought against the other Party (in contract, tort or otherwise) if it can be brought in English law without reference to the law of any other country.
- 10.7. The Courts of England and Wales shall have exclusive jurisdiction to settle any dispute (including claims for set-off and counterclaim) that may arise in connection with any aspect of the legal relationship established by the Contract or otherwise arising in connection with this Contract. The Parties each submit irrevocably to the jurisdiction of the Courts of England and Wales.

Third Party Rights

- 10.8. A person who is not party to this Contract ("Third Party") has no right to enforce any term of this Contract but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to the Contracts (Rights of Third Parties) Act 1999. If the Parties rescind this contract or vary any of its terms in accordance with the relevant provisions of this contract, such rescission or variation will not require the consent of any Third Party.

No Waiver

- 10.9. Failure by either party at any time to enforce any one or more of the provisions of this Contract or to require performance by the other Party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this Contract nor affect the validity of the Contract or any part of it or the right of the parties to enforce any provision in accordance with its terms.

Severance

- 10.10. If any provision of the Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect.