

**DATE** [*insert date of the last signature on the contract*]

(1)  
[            ] Council

- and -

(2)  
[*Supplier*]

**Contract for** [*insert title of Goods contract*]

This Contract is dated the [insert date of the last signature on the contract]

**Between**

- (1) [ ] (“Council”) and
  - (2) [insert the name of the Supplier ](Company No. [insert company number for limited companies]) whose address for all purposes of the Contract (including service of documents and proceedings) is [insert the address of the Supplier] (“Supplier”)
- together the “Parties”

**The Contract**

- 1. The Contract is the contract between the Parties for the provision of the Goods by the Supplier to the Council and incorporates:
  - 1.1. the Terms and Conditions;
  - 1.2. the Specification and any Purchase Orders issued by the Council; and,
  - 1.3. the Supplier’s Tender.
- 2. The Specification is the description of the Council’s requirements and is set out in Schedule 1
- 3. The Supplier’s Tender is the Supplier’s offer to provide the Goods in accordance with the Specification and is set out in Schedule 2.

This ~~agreement~~ Contract has been entered into on the date stated at the beginning of it

**Signed for and on behalf of Cambridge City Council by:**

Signature : .....

Name (IN CAPITALS):.....

*Note: The Contract must be signed by the Director for the relevant department.*

Director for : .....

**Signed for and on behalf of [insert name of Supplier] by:**

Signature : .....

Name (IN CAPITALS ):.....

**Note :** *The Contract must be signed personally by someone authorised to commit the Supplier to the Contract. This will usually be a director (if the Supplier is a company), a partner (if the Supplier is a partnership) or the sole owner of a firm.*

Designation : .....

**Contract ~~Information~~Data**

Description of ~~Service~~Goods:

**Contract Length**

Start Date: [insert date]

End Date [insert date]

The length of the Contract may be extended in accordance with clause 3.2 of the terms and conditions of contract by the following periods:

Maximum duration of any single extension: [insert number of months]

Maximum total duration of extension: [insert number of years]

Any extension must be made in writing in accordance with the terms of the Contract.

**Contract Management Information**

Council's Manager: Name:

Phone:

Email:

Supplier's Manager: Name:

Phone:

Email:

Contract Sum\* Payable as follows (refer to separate sheet if necessary)\*

Accounting Period (e.g. calendar monthly/On invoice)\*

~~\*If blank refer to Specification or Supplier's Tender~~

## Terms and Conditions

### 1. Status of the Contract

1.1. By entering into this Contract:

1.1.1. the Supplier states that the Supplier's Tender is accurate and includes everything necessary for the Supplier to meet its obligations under the Contract; and,

~~1.1.1.1.1.2.~~ the Council accepts the Supplier's Tender.

~~1.1.2.1.2.~~ The Contract is the sole and entire agreement between the Parties for the provision of the Goods and supersedes all negotiations, submissions, representations or undertakings in respect of the Goods that took place before it was signed.

~~1.2.1.3.~~ These terms and conditions of contract take precedence over the Specification and the Specification takes precedence over the Supplier's Tender.

### 2. Definitions

2.1. In this Contract the following words and phrases have the meanings given in this clause:

**Council's Manager** means the ~~Council C~~ contract ~~m~~Manager authorised by the Council to manage the Contract on its behalf at a day-to-day operational level as shown in the Contract Data;

**Confidential Information** means any information which has been designated as confidential by either Party in writing or ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information the disclosure of which would, or would be likely to, prejudice the commercial interests of any person, trade secrets, intellectual property rights and know-how of either Party and all personal data and sensitive personal data within the meaning of the DPA;

**Contract Data** means the contract data sheet making up part of this contract laying out certain information as amended from time to time;

**Date of Delivery** means that date by which the Goods must be Delivered to the Council, as specified in the Contract;

**Deliver** means to hand over the Goods to the Council at the address and on the date specified in the Contract, which shall include fully unloading the Goods and any other specific arrangements agreed in accordance with clause 5. ~~"Delivered"~~ and **"Delivery"** shall be construed accordingly;

**EIR** means the Environmental Information Regulations 2004;

**End Date** means the date on which the Contract will end as recorded in Contract Data or as changed if the Contract is extended.

**Extended Contract Period** means any period after the expiry of the Initial Contract Period for which the term of the Contract is extended;

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<b>FOIA</b>	means the Freedom of Information Act 2000;
<b>Force Majeure Event</b>	means: <ul style="list-style-type: none"> <li>(i) war, civil war, armed conflict or terrorism;</li> <li>(ii) nuclear, radioactive, sonic damage, chemical or biological explosion or contamination unless this is the result of an action by the Supplier; or,</li> <li>(iii) fire, explosion, storm, riot and civil commotion, tempest, flood, volcanic eruption or earthquake</li> </ul> <p>which directly causes a Party to be unable to meet all or a material part of its obligations under this Contract;</p>
<b>Goods</b>	means the goods to be supplied by the Supplier to the Council under the Contract;
<b>Initial Contract Period</b>	means the length of this Contract shown in Contract Data at the time the Contract was signed;
<b>Month</b>	means a calendar month;
<b>Normal Working Hours</b>	means between 09:00 to 17:30 on all Working Days;
<b>Performance Indicator</b>	means any measure of the Supplier's performance of the Goods that may affect payment which are set out in the Specification or Supplier's Tender;
<b>Personnel</b>	means the employees, agency personnel or sub-contractors of an organisation;
<b>Prohibited Act</b>	Means: <ul style="list-style-type: none"> <li>(i) defrauding, attempting to defraud or conspiring to defraud the Council;</li> <li>(ii) directly or indirectly offering, promising or giving an advantage of any kind to an elected member of the Council or Council Personnel to induce that person to improperly perform a function or activity or rewarding that person for improper performance of a function or activity;</li> <li>(iii) directly or indirectly requesting, agreeing to receive or accepting an advantage of any kind for improper performance of a function or activity in connection with the Contract;</li> <li>(iv) committing an offence under the Bribery Act 2010;</li> <li>(v) committing any offence under section 117(2) of the Local Government Act 1972; or,</li> <li>(vi) committing an offence of fraud;</li> </ul>
<b>Price</b>	means the sums payable by the Council to the Supplier for the Goods as set out in the Supplier's Tender or as otherwise varied in

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	accordance with the contract;
<b>Purchase Order</b>	means any order for Goods raised by the Council and placed with the Supplier pursuant to the Contract;
<b>Regulatory Body</b>	means any of those government departments and regulatory, statutory and other entities, committees, ombudsmen and bodies which, are legally entitled to regulate the matters dealt with in the Contract or any other affairs of the Council;
<b>Supplier's Manager</b>	Means the <del>Suppliers</del> contract manager appointed by the Supplier to manage the Contract on its behalf as shown in the Contract Data;
<b>Start Date</b>	means the date on which the Contract will start as recorded in the Contract Data;
<b>Working Day</b>	means a day (other than a Saturday or Sunday) on which banks are open for general business in England and Wales.

2.2. The interpretation and construction of these terms and conditions ~~of contract~~ will be subject to the following provisions:

~~(vii)~~ 2.2.1. words meaning the singular include where the context allows the plural and vice versa and masculine words include the feminine and the neuter;

~~2.2.1.2.2.2.~~ reference to a clause is a reference to the whole of that clause unless stated otherwise;

~~2.2.2.2.2.3.~~ reference to any statute, enactment, order, regulation or other similar instrument will be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted along with any subsidiary statutory provisions made from time to time together with any guidance or codes of practice issued by a regulatory body or relevant government department in relation to the regulations or legislation-;

~~2.2.3.2.2.4.~~ reference to any person includes natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;

~~2.2.4.2.2.5.~~ the words "include", "includes" and "including" are to be read as if they were immediately followed by the words "without limitation"; and,

~~2.2.5.2.2.6.~~ headings are included for ease of reference only and will not affect the interpretation or construction of these terms and conditions of contract.

### 3. Term

3.1. The Contract begins on the **Start Date** and ends on the **End Date** unless it is ended as laid out elsewhere in this contract or in another lawful way.

~~3.1.1.3.2.~~ The Council may extend the Contract for the further periods shown in Contract Data if it gives the Supplier at least 1 month's written notice from the End Date.

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~~3.2.3.3.~~ The Parties may extend the ~~contract~~Contract.

#### 4. Provision of the Goods

- 4.1. The Supplier will supply the Goods to the Council and comply with these terms and conditions of contract and with all the requirements and provisions of the Specification when providing the Goods.
- 4.2. The Supplier will provide the Goods:
  - 4.2.1. to the standards laid out in the Specification and in accordance with the Supplier's Tender;
  - 4.2.2. to all applicable standards and codes of practice or conduct of any appropriate professional bodies, trade associations or regulators; and,
  - 4.2.3. with all due skill, care and diligence to be expected of a competent contractor experienced in providing ~~services-goods~~ of the type, size and scope of the Goods.
- 4.3. This is not an exclusive contract and the Council is entitled to enter into other contracts and arrangements with other providers for the provision of any or all ~~services-goods~~ which are the same as or similar to the Goods.
- 4.4. The Council does not promise or guarantee the total quantity or value of the Goods and the Supplier agrees that it has not entered into the Contract on the basis of any such promise or guarantee.
- 4.5. The quantity or value of the Goods or of the Contract in any year does not give any right to a particular quantity or value of the Goods or of the Contract in any subsequent year.
- 4.6. In supplying the Goods, the Supplier will co-operate with the Council in all matters relating to the supply of Goods and comply with all the Council's instructions.
- 4.7. The Supplier shall manufacture, pack and supply the ~~Products-Goods~~ in accordance with any accreditations held by the Supplier and all generally accepted industry standards and practices that are applicable.
- 4.8. The ~~Products-Goods~~ supplied to the Council by the Supplier under this ~~agreement-Contract~~ shall:
  - ~~4.9.4.8.1.~~ conform to the Specification, the Supplier's Tender and the relevant Purchase Order;
  - ~~4.9.1.4.8.2.~~ be of satisfactory quality (within the meaning of the Sale of Goods Act 1979, as amended) and fit for any purpose held out by the Supplier;
  - ~~4.9.2.4.8.3.~~ be free from defects in material and workmanship and remain so for 12 months after Delivery; and,
  - ~~4.9.3.4.8.4.~~ be free from design defects;
  - ~~4.9.4.4.8.5.~~ comply with all applicable statutory and regulatory requirements; and,
  - ~~4.9.5.4.8.6.~~ The approval by the Council of any designs provided by the Supplier shall not relieve the Supplier of any of its obligations under this sub-clause;

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~~4.9.6-4.9.~~ The Supplier warrants that the intellectual property in the ~~products of the~~ Goods does not infringe the rights of any third party.

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## 5. Delivery

- 5.1. The Supplier shall Deliver the Goods to the Council by the relevant Date of Delivery.
- 5.2. Delivery shall be on the date and to the address specified in the Contract or the relevant Purchase Order.
- 5.3. Delivery of the Goods shall be complete on completion of unloading the Goods at the Delivery address and the Council has signed for the Delivery.
- 5.4. Delivery of the Goods shall be accompanied by a delivery note which shows the Purchase Order number and the type and quantity of the Goods and, in the case of part Delivery, the outstanding balance remaining to be Delivered.
- 5.5. Unless otherwise expressly stipulated by the Council in the Contract or relevant Purchase Order, Deliveries shall only be accepted by the Council on Working Days and during Normal Working Hours.
- 5.6. Where:

~~5.7.5.6.1.~~ the Supplier fails to Deliver the Goods or part of the Goods; or,

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~~5.7.1.5.6.2.~~ the Goods or part of the Goods do not comply with the provisions of clauses 5.1-5.4

~~5.7.2.~~ then ~~the Council may; without limiting any of its other rights or remedies implied by statute or common law, the Council may;~~

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~~terminate the Contract or the Contract as it relates to the Goods in question;~~

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~~5.7.3.5.6.3.~~ request the Supplier, free of charge, to deliver substitute Goods within the timescales specified by the Council;

~~5.7.4.5.6.4.~~ require the Supplier, free of charge, to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

~~5.7.5.5.6.5.~~ reject the Goods (in whole or part) and return them to the Supplier at the Supplier's own risk and expense and the Council shall be entitled to a full refund on those Goods or part of Goods duly returned;

~~5.7.6.5.6.6.~~ buy the same or similar Goods from another supplier; or,

~~5.6.7.~~ recover any expenses incurred in respect of buying the goods from another supplier which shall include but not be limited to administration costs, chargeable staff time and extra delivery costs.

~~5.7.7.5.7.~~ The Council's remedies under clause 5.6 are available to it without affecting or limiting any of its other rights or remedies implied by statute or common law.

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## 6. Property and Guarantee of Title

~~6.1.1-6.1.~~ Title and risk in the Goods shall pass to the Council when Delivery of the Goods is complete.

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- 6.2. The Supplier warrants that it has full clear and unencumbered title to all the Goods.
- 6.3. On Delivery the Council shall acquire a valid and unencumbered title to the Goods.

## 7. Cancellation

- 7.1. The Council shall have the right to cancel the order for the Goods, or any part of the Goods, which have not yet been Delivered to the Council provided the cancellation is in writing.
- 7.2. If it cancels an order, the Council shall pay:
  - ~~7.2.1.~~ ~~the Price or~~ that part of the Price for Goods which have been Delivered to the Client;
  - ~~7.2.1.~~~~7.2.2.~~ ~~that part of the Price for Goods~~ -which at the deemed date of service of the cancellation notice, are already in transit; or,
  - ~~7.2.2.~~~~7.2.3.~~ the costs of materials purchased to fulfil the order and which cannot be used for other orders or be returned to the materials' supplier.
- 7.3. For the avoidance of doubt the Council shall not be liable for any loss of anticipated profits or any consequential loss if it cancels an order.

## 8. Contract Management

- 8.1. The Council will appoint a Council's Manager and the Supplier will appoint a competent, qualified and experienced person to act as a Supplier's Manager and the Parties will inform the other immediately of any change in appointment.
- 8.2. The Supplier's Manager will be authorised to act on behalf of the Supplier for all purposes connected with the Contract and any statement or direction given to the Supplier's Manager will be deemed to have been given to the Supplier.
- 8.3. If the Supplier requires an explanation or clarification of part of the Contract it will contact the Council's Manager, and will accept and comply with the Council's Manager's explanation or direction which will be given or confirmed in writing.
- 8.4. From time to time the Council's Manager may appoint one or more other persons to act as their deputy and will notify the Supplier of any appointments.
- 8.5. The Supplier's Manager must be available during **Normal Working Hours**; if the Supplier's Manager is unavailable because of holiday, sickness or statutory daily breaks, they must nominate a deputy to perform their duties.
- 8.6. The Council's Manager, acting reasonably, may because of the nature of the Goods or the locations at which it is to be provided or by virtue of the behaviour of any of the Supplier's Personnel, require the Supplier to remove certain Personnel from the provision of the Goods by giving the Supplier's Manager written notice to that effect, stating the reasons.
- 8.7. The Supplier will remove the Personnel referred to in 8.6 immediately and will as soon as practicable provide replacement Personnel of appropriate skills and experience.
- 8.8. For the avoidance of doubt, removal of any Supplier's Personnel from the provision of the Goods does not mean dismissal from the employment of or cessation of Goods to the Supplier and the Council will not be liable either to the Supplier or to any of its Personnel in respect of any liability, loss or damage as a result of that removal.

8.9. The Supplier's Manager and Council's Manager will meet as laid out in the Specification, or as otherwise agreed from time to time by the Parties, in order to monitor the Supplier's performance under the Contract.

## 9. Price

9.1. The Price will be calculated as laid out in the Supplier's Tender

9.2. The Price will remain unchanged during the Initial Contract Period unless it is varied under clause 25.

9.3. If the Contract is extended, the Price will be increased every year by the most recently published CPI rate.

9.4. If the Parties agree to alter the Goods or Price as described in clause 24, the altered Goods or Price will be subject to review in accordance with clause 9.3.

## 10. Payment

10.1. The Supplier will submit invoices to the council using the process and timing laid out in the Specification.

10.2. All invoices must contain:

~~10.3-10.2.1.~~ all appropriate references including any relevant Purchase Order number; ~~and~~

~~10.3-1-10.2.2.~~ a detailed breakdown of the Goods supplied; ~~and that it is supported by~~

~~10.3-2-10.2.3.~~ any other documentation stipulated in the Specification; ~~and,~~

~~10.3-3-10.2.4.~~ any other documentation that is reasonably required by the Council to substantiate the invoice.

~~10.3-4-10.3.~~ The Supplier will add VAT to the Price at the prevailing rate as applicable.

10.4. The Council will pay each agreed, correct and valid invoice within thirty (30) days of receipt together with a sum equal to the VAT chargeable on the amount payable.

10.5. If the Council does not pay an undisputed amount by the due date then the Council will pay the Supplier interest at the Statutory Interest rate in accordance with the Late Payment of Commercial Debts (Interest) Act 1998.

10.6. If the Parties have a dispute about an invoice:

~~10.7-10.6.1.~~ the Council will pay any undisputed part of the invoice;

~~10.7-1-10.6.2.~~ the Supplier will continue to supply the ~~service~~Goods; a dispute about an invoice does not allow it to suspend or terminate the supply of the Goods; and,

~~10.7-2-10.6.3.~~ the Parties will resolve the dispute using the dispute resolution procedure laid out in clause 23.

~~10.8-10.7.~~ The Supplier will indemnify the Council on a continuing basis against any liability, including any interest, penalties or costs, which the Council is required to pay at any time in respect of the Supplier's failure to account for or to pay any VAT connected ~~with~~ to payments made to the Supplier under the Contract; the Supplier will pay any amounts due

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under this clause to the Council not less than five (5) Working Days before the date upon which the tax or other liability is payable by the Council.

~~10.9-10.8.~~ If the Supplier owes money to the Council for any reason connected with this ~~contract~~ **Contract** then the Council may deduct that money from any sum owed by the Council to the Supplier, whether connected with this ~~e~~**Contract** or not, without the Supplier needing to agree. The Supplier cannot make any claim against the Council in order to withhold payment of any such amount in whole or in part.

## 11. Bribery and Corruption

### 11.1. The Supplier:

- 11.1.1. will not ask for or accept any gratuity, tip or any other form of money-taking or reward in connection with the Contract other than the Price;
- 11.1.2. will not commit a Prohibited Act; and
- 11.1.3. warrants that it is not aware of any financial or other advantage being given to or any agreement reached with any elected member of the Council or the Council's Personnel in connection with the execution of the Contract.

~~11.1.4-11.2.~~ The Supplier will

~~11.2-11.2.1.~~ ensure that neither the Supplier nor its Personnel are placed in a position where, in the reasonable opinion of the Council, there is or may be an actual or potential conflict between the pecuniary or personal interests of the Supplier and the duties owed to the Council under the provisions of the Contract; and,

~~11.2.1-11.2.2.~~ disclose to the Council full particulars of any such conflict of interest which arises.

### 11.3. If the Supplier breaches Clause 11.2 the Council may:

- 11.3.1. take such steps it considers necessary to prevent, stop or remedy any breach; and,
- 11.3.2. terminate the Contract immediately in accordance with Clause ~~21~~ **Error! Reference source not found.**

~~11.3.3.~~ the actions of the Council under this clause will not prejudice or affect any rights of action or remedy which the Council may have.

## 12. Compliance with Laws and Policies

~~12.1.~~ The Supplier will at all times comply:

~~12.1-12.1.1.~~ with all applicable laws, statutes, regulations and codes from time to time in force; and,

~~12.1.1-12.1.2.~~ the requirements of the Health and Safety at Work etc. Act 1974, the Management of Health and Safety at Work Regulations 1999 (as amended) and all other statutory provisions relating to health and safety.

~~12.1.2-12.2.~~ The Supplier will ensure it complies with the requirements of the Equality Act 2010 and in particular will:

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~~12.2.12.2.1.~~ use its best endeavours to eliminate all conduct prohibited by the Act and will seek to promote equality among its Personnel and generally;

~~12.2.1.12.2.2.~~ set out its equal opportunities policy in instructions to those concerned with recruitment, training or promotion, in documents available to its Personnel and recognised trade unions or other representative groups of its Personnel and in its advertisements and literature.

~~12.2.2.12.3.~~ The Supplier will comply with all applicable anti-slavery and human trafficking laws, statutes and regulations including the Modern Slavery Act 2015.

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### 13. Data Protection and Freedom of Information

13.1. Both Parties will fulfil their obligations under the DPA connected with the Contract and will comply with the terms contained in Appendix I.

13.2. The Supplier will assist and cooperate with the Council to enable the Council to comply with its information disclosure obligations under the **FOIA** and the **EIR** and in particular will comply with the terms contained in Appendix II.

13.3. This clause ~~1310~~ will continue to apply indefinitely after the Contract ends.

### 14. Access

14.1. The Supplier will allow the Council and its auditors access at all reasonable times and on reasonable notice to all premises of the Supplier to:

~~14.2.14.1.1.~~ inspect work being done as part of the Contract,

~~14.2.1.14.1.2.~~ to all records and information relating to the Contract,

~~14.2.2.14.1.3.~~ to any of the Supplier's personnel; and,

~~14.2.3.14.1.4.~~ to all resources and systems used by the Supplier in connection with the Contract.

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~~14.2.4.14.2.~~ For a period of six (6) years, or such other period as the Parties may agree, following the expiry or termination of the Contract, the Supplier will allow the Council and its auditors reasonable access from time to time as may be reasonably required for the purposes of examining records and information relating to the Contract.

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14.3. The Council will allow the Supplier to have such access as is reasonable in the circumstances to the Council's premises, officers, members or information for the purpose of providing the Goods only to the extent it is necessary to deliver the Goods

14.4. Any access to the Council's premises and any labour and equipment that may be provided by the Council in connection with Delivery of the Goods shall be provided without acceptance by the Council of any liability in respect of any actions, claims, costs and expenses incurred by third parties for any loss of damages to the extent that such loss or damage is not attributable to the negligence or other wrongful act of the Council or its servant or agent.

14.5. The Supplier shall indemnify the Council in respect of any actions, suits, claims, demands, losses, charges, costs and expenses, which the Council may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course

of Delivery or installation to the extent that any such damage or injury is attributable to any act or omission of the Supplier or any of his sub-Suppliers.

**15. Management Information and Audit**

- 15.1. The Supplier will provide the Council with
  - 15.1.1. the reports and information as set out in the Specification; and,
  - 15.1.2. such other information as the Council may reasonably require from time to time or as a consequence of the Contract ending,and agrees that the costs of so doing are included in the Price.
- 15.2. The Supplier will co-operate fully with any enquiry or investigation made by the Council's internal or external auditors or any other quality or performance inspectors that in any way concerns the Contract or the Goods.
- 15.3. The Council may use information given by the Supplier under the Contract to prevent and detect fraud and money-laundering and may share such information with other organisations that handle public funds for the same purpose.

**16. Insurance**

- 16.1. The Supplier shall maintain adequate insurance levels, as outlined in the Specification, throughout the Contract Term or such other amount agreed by the Council in writing being adequate to cover the liabilities that may arise under or in connection with the Contract..
- 16.2. On each policy renewal date, the Supplier will provide the Council with written evidence that it has complied with this condition.

**17. Confidentiality**

- 17.1. Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in the Contract, each Party will:

~~17.2.1~~17.1.1. treat the other party's **Confidential Information** as confidential and safeguard it accordingly; and

~~17.2.1~~17.1.2. not disclose the other party's Confidential Information to any other person without the owner's prior written consent.

~~17.3~~17.2. Clause 17.1 will not apply to the extent that:

~~17.3.1~~17.2.1. such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations under clause ~~1310~~ (Freedom of Information);

~~17.3.2~~17.2.2. such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

~~17.3.3~~17.2.3. such information was obtained from a third party without obligation of confidentiality;

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~~17.3.4-17.2.4.~~ such information was already in the public domain at the time of disclosure otherwise than by a breach of the Contract; or

~~17.3.5-17.2.5.~~ it is independently developed without access to the other party's Confidential Information.

~~17.3.6-17.3.~~ The Supplier may only disclose the Council's Confidential Information to the Personnel who are directly involved in the provision of the Goods and who need to know the information, and will ensure that such Personnel are aware of and will comply with these obligations as to confidentiality.

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17.4. The Supplier will not, and will procure that the Personnel do not, use any of the Council's Confidential Information received otherwise than for the purposes of the Contract.

17.5. In discharging its obligations under this clause ~~1715~~, the Supplier will observe all further or particularised requirements in respect of confidentiality as may be set out in the Specification.

## 18. Liability

18.1. The Supplier will be liable for and will indemnify and keep indemnified the Council against all liabilities, actions, damages, costs, losses, claims, expenses, demands and proceedings whatsoever either arising directly from the breach by the Supplier of any of its obligations under the Contract including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Supplier, or any other loss which is caused directly or indirectly by any act or omission of the Supplier.

18.2. The Supplier will not be responsible for any injury, loss, damage, cost or expense if and to the extent that it is caused by the negligence or wilful misconduct of the Council or by breach by the Council of its obligations under the Contract.

## 19. Status and Publicity

19.1. At all times during the term of the Contract, the Supplier will be an independent contractor and nothing in the Contract will create a contract of employment, a relationship of agency, a partnership or a joint venture between the Parties.

19.2. The Supplier will not advertise its provision of the Goods to the Council or use the Council's corporate logo, coat of arms or name without the prior consent of the Council's Manager.

19.3. A Party is not authorised to act in the name of, or on behalf of, or otherwise bind the other Party unless it is authorised to do so under the terms of the Contract.

19.4. The Supplier will not communicate by any means with the press or broadcasting media about any matters connected with the Contract, except with the prior consent of the Council's Manager.

19.5. ~~The Supplier will not advertise its provision of the Goods to the Council or use the Council's corporate logo, coat of arms or name without the prior consent of the Council's Manager.~~

## 20. Business Continuity

20.1. The Supplier will have business continuity arrangements in place so that in the event of a failure of or disruption of the Goods they will ensure that normal provision of the Goods begins as soon as possible.

~~20.2. ensure that the Council can continue to provide its functions;~~

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~~20.2.1. prevent loss of data;~~

~~20.2.2. prevent or as far as possible minimise any impact on the Service levels set out in the Contract; and~~

~~20.2.3. ensure that normal provision of the Goods begins as soon as possible.~~

~~20.2.4.~~20.2. The Supplier must continue to meet its obligations under the Contract and the Price will not be increased where any failure or disruption of the Goods occur because of any breach of Contract by the Supplier.

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## 21. Ending the Contract

21.1. The Council may without liability end the Contract for any reason by giving the Supplier not less than one Month's notice in writing.

21.2. If the Supplier materially breaches any of the terms of the Contract, the Council may give the Supplier ten (10) Working Days' notice to remedy the breach. If the breach is not remedied within those 10 days or is not capable of remedy the Council may end the Contract by giving the Supplier ten (10) Working Days' notice in writing.

~~21.2.~~21.3. For the purposes of Clause 21.2, failure by the Supplier to Deliver the Goods, or some of the Goods, would be a material breach of the Contract.

~~21.3.~~21.4. The Council may end this Contract immediately by giving the Supplier notice in writing if the Supplier:

~~21.4.1.~~21.4.1. becomes bankrupt or insolvent, in circumstances which entitle the Court or a creditor to appoint or have appointed a receiver, manager or administrative receiver, has a provisional liquidator appointed or has a winding-up order made;

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~~21.4.1.~~21.4.2. breaches Clause 12.3; or,

~~21.4.2.~~21.4.3. repeatedly breaches the Contract which the Council, acting reasonably, considers sufficiently material to end of the Contract and includes if they are breaches of the same or different obligations, or if the breaches have been cured.

## 22. Force Majeure

22.1. No Party will be considered in breach of its obligations under this Contract, or be responsible for any delay in their performance if this is prevented or delayed as a direct or indirect consequence of a Force Majeure Event.

22.2. If a Party reasonably considers that its obligations are delayed or affected by a Force Majeure Event, then that Party will promptly notify the other Party in writing providing full details of the Force Majeure Event and how long they estimate the delay will be.

## 23. Dispute Resolution

23.1. If there is a dispute connected with the Contract the Parties will attempt in good faith to negotiate a settlement to the dispute following the dispute resolution process laid out in this clause ~~2324.~~

23.2. Firstly, the Council's Manager and the Contractor's Manager will endeavour to resolve any dispute between them.

~~23.2.1-23.3.~~ If the Council's Manager and the Contractor's Manager are unable to reach agreement within five (5) Working Days, the dispute will be referred to a Director of the Council and a person of equivalent status with the Contractor.

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~~23.3-23.4.~~ If the Council's Manager and the Contractor's Manager are for any reason unable to resolve the Dispute within 30 days of it being referred to them, the parties agree to enter into mediation in good faith to settle the Dispute in accordance with the CEDR Model Mediation Procedure:

~~23.4-23.4.1.~~ Unless otherwise agreed between the parties within 14 days of service of the Dispute Notice, the mediator shall be nominated by CEDR.

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~~23.4.1-23.4.2.~~ To initiate the mediation, a party must serve notice in writing (ADR notice) to the other party to the Dispute, referring the dispute to mediation, a copy of the ADR notice should be sent to CEDR.

~~23.4.2-23.4.3.~~ Unless otherwise agreed between the parties, the mediation will start not later than 14 days after the date of the ADR notice

~~23.4.3-23.5.~~ No party may commence any court proceedings ~~under clause 25~~ in relation to the whole or part of the Dispute until 30 days after service of the ADR notice, provided that the right to issue proceedings is not prejudiced by a delay.

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~~23.5-23.6.~~ If the Dispute is not resolved within 30 days after service of the ADR notice, or either party fails to participate or ceases to participate in the mediation before the end of that 30 day period, or the mediation terminates before the end of that 30 day period, the Dispute shall be resolved by the courts of England and Wales in accordance with clause ~~26.5~~ of this ~~agreement~~Contract.

~~23.6-23.7.~~ Nothing in this dispute resolution procedure will prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.

#### 24. Assignment and Sub-contracting

24.1. The Council can assign the Contract to another public body.

24.2. The Supplier cannot transfer or assign the Contract, including to a purchaser of the Supplier's business without the written consent of the Council before doing so.

24.3. The Supplier cannot sub-contract any of its obligations under the Contract or use the Contract as security without obtaining the written consent of the Council before doing so.

24.4. The Supplier will be liable for any failure of a sub-contractor to perform the Goods, or for its failure to meet any of the Supplier's obligations under the Contract.

24.5. If a Supplier sub-contracts its obligations under the Contract, it will ensure that the contract with the contractor shall:

~~24.6-24.5.1.~~ require payment to be made of all sums due from the Supplier to the sub-contractor within 30 days from the receipt of a valid invoice; and,

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~~24.6.1-24.5.2.~~ require that the sub-contractor will have insurance at the same levels as the Supplier's insurance under this Contract.

## 25. Contract Changes

- 25.1. Either Party may propose a change to the Specification or these terms and conditions of contract which may include a change to the Price.
- 25.2. The Parties may need to negotiate the proposal and if they agree a change they will record the change in writing and this will be signed by an authorised representative of the Council and an authorised representative of the Supplier.
- 25.3. A contract change will not take effect if a proposal is not agreed by both Parties.
- 25.4. Any extension to the term of the Contract or another change to the information contained in the Contract Data will be recorded by the Council issuing a revised version of the Contract Data.

## 26. General

- 26.1. No third parties have the right to enforce any term of the Contract under the Contracts (Rights of Third Parties) Act 1999.
- 26.2. If any provision of the Contract or if any Court of competent jurisdiction declares any provision of the Contract to be invalid or unenforceable in any way, this will not affect the other provisions of the Contract which will remain in full effect.
- 26.3. Where any of the rights and obligations of the parties in the Contract will or may be exercised after the end of the Contract, the Contract's Clauses conferring these rights and powers will survive and remain in full force and effect in spite of the Contract ending.
- 26.4. Any formal demand, notice or other communication required to be given under the Contract will be sufficiently served if sent by recorded delivery post (or equivalent), or electronic mail to the address of the party to be served recorded in this contract and, if so sent, will (subject to proof to the contrary) be deemed to have been received by the addressee (in the case of transmission by post) on the second working day after the date of posting or (in the case of electronic mail) on the first working day after confirmed transmission, as the case may be.
- 26.5. The Contract will be governed by the laws of England and Wales and subject to the exclusive jurisdiction of the Courts of England and Wales.

## Appendix I – data protection

1. The terms “Data Controller”, “Data Processor”, “Data Subject”, “Personal Data”, “Process” and “Processing” have the meaning given under the Data Protection Act 1998 (“DPA”).
2. The Supplier will comply with any notification requirements under the DPA.
3. If the Supplier processes Personal Data as a Data Processor for the Council, the Supplier will:
  - 3.1.1. ~~3.1.1.1.~~ process the Personal Data only in accordance with instructions from the Council as set out in the Contract or as otherwise notified in writing by the Council, these may be specific or general instructions;
  - 3.2. comply with all applicable laws;
  - 3.3. process the Personal Data only as is necessary to meet the Supplier’s obligations under the Contract or as is required by **Law** or any **Regulatory Body**;
  - 3.4. have 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 will 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;
  - 3.5. ensure the Personnel who may have access to the Personal Data are suitable;
  - 3.6. obtain prior written consent from the Council in order to transfer the Personal Data to any other body;
  - 3.7. not cause or permit the Personal Data to be transferred outside of the European Economic Area without the prior consent of the Council;
  - 3.8. ensure that all Personnel with access to the Personal Data understand the confidential nature of the Personal Data and comply with the Supplier’s obligations;
  - 3.9. ensure that none of the Personnel publish disclose any Personal Data to a third party unless directed in writing to do so by the Council;
  - 3.10. not disclose Personal Data to any third parties in any circumstances other than with the written consent of the Council or to comply with a legal obligation on the Council.
4. The Supplier will notify the Council within 5 (five) Working Days) if it receives a:
  - 4.1.1.1. request from a Data Subject to have access to that person’s Personal Data; or,
  - 4.1.1.4.1.2. complaint or request relating to the Council’s obligations under the DPA;

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## Appendix II – Freedom of Information

1. The Supplier will, and will ensure that any sub-contractors will, transfer to the Council 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;
  - 1.1. provide the Council with a copy of all Information in its possession, or power in the form that the Council requires within 5 (five) Working Days (or such other period as the Council may specify) of the Council's request; and
  - 1.2. provide all necessary assistance as reasonably requested by the Council to enable the Council 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 EIR.
2. The Supplier will transfer to the Council any requests for information under the FOIA or the EIR that it receives as soon as practicable.
3. The Council will be responsible for determining in its absolute discretion and notwithstanding any other provision in the Contract or any other agreement whether the information is exempt from disclosure in accordance with the provisions of the FOIA or the EIR.
4. In no event will the Supplier respond directly to a Request for Information unless expressly authorised to do so by the Council.
5. The Supplier acknowledges that the Council may be obliged under the FOIA, or the EIR to disclose information concerning the Supplier or the Goods in certain circumstances:
  - 5.1. without consulting the Supplier; or
  - 5.2. following consultation with the Supplier and having taken their views into account;
  - 5.3. provided always that where ~~this Clause 5.5~~ applies the Council will 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.
6. The Supplier will ensure that all information pertaining to the Contract is retained until six (6) years after the end of the term, or as long a period as may be agreed between the Parties, full and accurate records of the Contract including the Goods supplied under it, all expenditure reimbursed by the Council, and all payments made by the Council and will permit the Council or its auditors to inspect such records as requested from time to time.

**Schedule 1**  
**Specification**

**Schedule 2**  
**Supplier's Tender**