

NJC Terms and Conditions

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DEFINITIONS

1. "Additional Services" mean additional services requested by the Client in writing and which services the Company accepts in writing to perform or cease to perform (as the case may be) in connection with this agreement, including but not limited to special cleans;
- 1.1 "Charges" means the charges specified in Schedule 1;
- 1.2 "Change in Law" means the coming into effect of a new Law or a change in Law after the Commencement Date;
- 1.3 "Client Representative" means the person appointed by the Client as specified in the Contract Particulars who will act as duly authorised representative of the Client and identified in writing by the Client to the Company from time to time as its representative;
- 1.4 "Commencement Date" means the date of this agreement;
- 1.5 "Commercial Premises" has the meaning provided to this term under the Contract Particulars;
- 1.6 "Company Representative" means the person appointed by the Company as specified in the Contract Particulars who will act as duly authorised representative of the Company and identified in writing by the Company to the Client from time to time as its representative;
- 1.7 "Information" has the meaning provided to this term under clause 15.3;
- 1.8 "Initial Expiry Date" has the meaning provided to this term under the Contract Particulars;
- 1.9 "GDPR" means the General Data Protection Regulation as modified, amended, extended, consolidated, re-enacted and/or replaced and in force from time to time. "**Personal Data**", "**Data Controller**" and "**Data Processor**" shall have the meanings ascribed thereto under the GDPR;
- 1.10 ["EIR" has the meaning provided to this term, under clause 15.3;]
- 1.11 ["FOIA " has the meaning provided to this term under clause 15.3;]
- 1.12 "Law" means any applicable law including any statute, statutory instrument, bye law, order, regulation, directive, treaty, decree, judgment, order or decision of any court, regulator or tribunal or a binding code of conduct;
- 1.13 "Services" means the services set out under Appendix A together with any Additional Services;
- 1.14 "Specification" means the service specification set out under Appendix A; and
- 1.15 "Working Days" means a day that is not a Saturday, Sunday or public or bank holiday in England and/or Wales.

2. INTERPRETATION

- 2.1 Clause, schedule and paragraph headings shall not affect the interpretation of this agreement.
- 2.2 A person includes a natural person, corporate or unincorporated body (whether or not having separate legal personality).

- 2.3 The schedules form part of this agreement and shall have effect as if set out in full in the body of this agreement and any reference to this agreement includes the schedules.
- 2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 2.5 Words in the singular shall include the plural and vice versa.
- 2.6 A reference to one gender shall include a reference to the other genders.
- 2.7 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 2.8 A reference to writing or written includes faxes and e-mail.
- 2.9 Any obligation in this agreement on a person not to do something includes an obligation not to agree or allow that thing to be done.
- 2.10 A reference to a document is a reference to that document as varied or novated (in each case, other than in breach of the provisions of this agreement) at any time.
- 2.11 References to clauses and schedules are to the clauses and schedules of this agreement; references to paragraphs are to paragraphs of the relevant schedule.

3. SERVICES

- 3.1 The Company shall provide the Services (as amended from time to time in accordance with this agreement) from the Effective Date at the Client Premises until expiry or early termination of this agreement under clause 7:
 - 3.1.1 employing the standards of reasonable skill and care to be expected of a properly qualified and competent contractor experienced in carrying out work such as its duties under this agreement, using appropriately trained staff and in accordance with all Laws; and
 - 3.1.2 in accordance with all Law regarding health and safety and the Client's health and safety policy (to the extent a written copy of any such health and safety policy is provided to the Company prior to entry into this agreement) whilst at the Client Premises.
- 3.2 Any Additional Services requested by the Client and accepted by the Company (both in writing) will be charged at a rate to be agreed in writing by the parties.
- 3.3 The Company shall not accept responsibility for its failure to carry out its obligation as a consequence of fire, explosion, accident, mechanical breakdown, interruption of power, denied access or any other cause beyond the control of the Company and shall as a result be entitled to a reasonable extension of time for performing the Services. If the period of delay or non-performance continues for 30 days or more, either party may terminate this agreement by giving 3 months' written notice to the other party. In such circumstances the Client shall be responsible for the prompt payment of all Charges payable to the Company under this agreement up to the Initial Expiry Date or any other later date of expiry of the term of this agreement as agreed by the parties pursuant to clause 6.1.
- 3.4 Each party shall notify the other as soon as practicable of any health and safety incidents or material health and safety hazards at the Client Premises of which it becomes aware and which relate to or arise in connection with the performance of this agreement and the parties

- shall discuss and agree any Additional Services which may need to be employed by the Company (at the Client's cost) in order to manage any such material health and safety hazards.
- 3.5 The Company shall, unless otherwise agreed and subject to clause 4.7, not have any responsibility for the security of the Client Premises which shall at all times remain the responsibility of the Client.
- 3.6 The Company shall notify the Client as soon as is reasonably practicable on becoming aware of any damage caused by the Company, its agents, employees or sub-contractors to any property of the Client, to any of the Client Premises in the course of providing the Services.
- 3.7 The Company shall comply with all the Client's policies when providing the Services which are relevant to the provision of the Services. Where it is agreed by the Company that the Company will lock the Client Premises it will do so with all due care to ensure the premises are left safe and secure. The Company will also advise the Client promptly of any security risks which it may become reasonably aware of.
- 3.8 The Client will supply free of charge all the necessary utilities in order for the Company to perform its duties and the Company shall ensure that the use of such utilities in an efficient and economical matter, ensuring waste and environmental impact is minimised as far as reasonably practicable at all times.
- 3.9 The Client will supply a secure cupboard or room located at the Client Premises for the storage of the Company's equipment following consultation with the Company regarding the Company's reasonable equipment storage requirements. Only the Company, its personnel and sub-contractors shall have exclusive access to such secure cupboard/room unless in the case of an emergency. The Client accepts responsibility and subsequent cost arising from misuse of the Company's equipment should such storage not be made available or the Client otherwise fails to comply or procure compliance by any third party with obligations under this clause 4.9. The Company shall be responsible for the insurance of its own equipment.
- 4.10 The parties shall meet every 6 months during the term of this agreement to discuss the provision of the Services and any other matters arising under this agreement.
- 4.11 The Client agrees not to solicit either on its own account or on behalf of another party the services of any full or part-time employee of the Company working for the Client in performing the Services during the duration of the agreement and for a period of six months following the termination of the agreement (however caused) or its expiry. Re-employment of the Company's employees involved in the Services directly by the Client within the periods specified in this clause 4.11 will trigger a charge equivalent to one month's salary value unless TUPE applies on a change of service provision.
- 4.12 The Client shall use its reasonable endeavours to ensure its electrical appliances at the Client Premises (which are subject to this agreement) carrying high voltages shall be in a safe condition whilst cleaning is carried out. The Company is responsible for ensuring that all equipment owned by the Company used for the purposes of delivering the Services at the Client Premises is safe and fit for purpose and that its staff are appropriately trained in the equipment's use. The Client shall be responsible for conducting any testing of the Company's electrical appliances used and/or stored on the Client Premises to ensure such electrical appliances comply with the Client's health and safety policy and such testing shall not unreasonably interfere with the Company's performance of its obligations under this agreement.
- 4.13 At all times, the Company shall ensure that:

- 4.13.1 each of the Company's personnel is suitably qualified, adequately trained and capable of providing the applicable Services in respect of which they are engaged under this agreement; and
- 4.13.2 only those people who are authorised by the Company (under any authorisation procedure which may be agreed between the parties each acting reasonably) are involved in providing the Services.
- 4.14 The Client may refuse to grant access to, and remove, any of the Company's personnel from the Client Premises if they present a security threat or otherwise pose a threat of harm to people or property present at the Client Premises by providing reasonable notice to the Company and that the Company acts reasonably in so refusing to grant access (which shall include notifying the Company of its reasons for so refusing access).

4. PAYMENT

- 4.1 The Client shall pay the Charges for the Services provided by the Company to Client under this agreement.
- 4.2 Collection of the Company's monthly charges is via invoice to the Client. The Company shall be entitled to issue an invoice at the end of each calendar month for the Services provided in that calendar month.
- 4.3 All Charges are based on the fixed charges to achieve the standard of Services described in the Specification and not labour or hourly content. All Charges (except any charges for Additional Services) are calculated to an annual figure and then divided by twelve to achieve a calendar monthly figure. This will be the amount invoiced each month.
- 4.4 The due date for payment of invoices shall be 30 days from the invoice date. For the avoidance of doubt, each of the parties hereby agrees and acknowledges that it enters into the payment terms set out in this clause in good faith and on the basis of fair dealing. If payment is not received the Company reserves the right to suspend service and / or charge interest with seven days prior notice. For all overdue amounts a rate of 2.5% above the current bank base rate will apply.
- 4.5 Upon withdrawal of Services and/or termination of this agreement (however determined) all outstanding invoices including any notice period will immediately become due for payment.
- 4.6 If the Client wishes to change the location or make alterations to the extent of the Client Premises, this agreement shall not terminate, and the parties shall meet to discuss in good faith variations to the Specification and the charges for the relevant premises. Such variations shall be agreed in writing by the parties. In the event that such variations cannot be agreed by the parties acting reasonably, the Client shall be entitled to terminate the relevant part of the Service in accordance with clause 7.2.1.
- 4.7 Any Additional Services over and above the agreed Specification shall be agreed in writing and variations to this agreement shall be agreed in writing. The charges for such Additional Services will be subject to fair and reasonable adjustment to the Charges to reflect any substantial increase or decrease in the work required of the Contractor as a result.
- 4.8 If the Client, on bona fide grounds, disputes any part of an amount invoiced by the Company pursuant to clause 5.2, the Client shall, within ten (10) days after the date of the relevant invoice, notify the Company in writing of that dispute giving full details of the nature of the dispute and the amount that it claims should have been invoiced and:
 - 4.8.1 the Client shall pay the part of the invoice in full which is not disputed in accordance with clause 5.4;

- 4.8.2 the parties shall negotiate in good faith to resolve the dispute, but if a resolution cannot be reached within fourteen (14) days of the Client giving notice under this clause 5.8.2, clause 25 shall apply to the dispute;
- 4.8.3 the Company shall provide all such information and evidence as may be reasonably necessary to verify the disputed sum; and
- 4.8.4 following resolution of the dispute the Client shall, within thirty (30) days, pay to the Company that part of the disputed sum (if any) as it is resolved is payable by the Client.
- 4.9 The Company shall be entitled to claim interest on any sum payable under this agreement by the Company and which is not paid on or before the due date for payment under the Late Payment of Commercial Debts (Interest) Act 1998.
- 4.10 All amounts payable by one party to another party under this agreement are deemed to be exclusive of VAT. If an amount so payable constitutes consideration for a taxable or deemed taxable supply by such other party to the first party, the first party shall on demand and upon receipt of an appropriate VAT invoice pay in addition the amount of VAT properly chargeable by such other party in respect of the taxable or deemed taxable supply in question.
- 4.11 Where under this agreement one party has agreed to reimburse or indemnify another party in respect of any payment made or cost incurred by such other party then the first party shall also reimburse the VAT paid by such other party which forms part of its payment made or cost incurred to the extent that such VAT is not available for credit (whether by way of set-off or repayment) for such other party or a member of a VAT group of which such party is a member (a "VAT Group Member") under sections 24-26 (inclusive) of the Value Added Tax Act 1994 or any regulations made thereunder or under any similar or equivalent legislation replacing or introduced in addition to the same.
- 4.12 Save as otherwise expressly provided in this agreement or required by Law, all payments to be made by the Client to the Company under this agreement will be made in full and without any set-off or any deduction or withholding including on account of any counter-claim.
- 4.13 The Contract Price shall be increased on each anniversary hereof in line with inflation. The increase in the Retail Price Index (RPI) for the 12 months ending on the last day of the month preceding commencement or each such anniversary shall be used as the adjusting factor. The Client also agrees that the contract charge shall be adjusted based on any Legislative increases imposed on the company such as National Living Wage, they reserve the right to pass on some or all of the increased costs from the effective date.
5. DURATION
- 5.1 This agreement shall come into force on the Commencement Date. The agreement is for a period as stated in the contract and shall automatically renew annually thereafter. To terminate this contract, a minimum period of notice in writing of three calendar months prior to the renewal date is required.
- 5.2 The Client may extend this agreement by a further period at any time by giving the Company no less than the 3 months in writing and on such terms as agreed by the parties in writing.
- 5.3 Any such notice given under clause 6.1 shall set out the length of the extension required. In the event that an extended duration is required, then, unless otherwise agreed in writing by the parties, all of the terms of this agreement shall remain in full force and effect, save

that the definition of "Initial Expiry Date" shall be amended to record the revised expiry date.

6. TERMINATION

6.1 This agreement shall expire on the Initial Expiry Date unless terminated or extended in accordance with its terms.

6.2 Each party may terminate this agreement:

6.2.1 with no less than six (6) months' notice in writing to each other party; or

6.2.2 as otherwise set out in this agreement;

6.3 Either party may terminate this agreement with immediate effect on or at any time after the occurrence of any of the following events:

6.3.1 in respect of a material breach by the other party (including non-payment of the Charges which are due and payable in accordance with the terms of this agreement) which is not capable of remedy within 20 Working Days;

6.3.2 in respect of a persistent breach by the other party of any of its obligations under this agreement which (if the breach is capable of remedy) the other party has failed to remedy within 8 weeks after the receipt of notice in writing (including by email) giving particulars of the breach and the action required of the other party to remedy such breach;

6.3.3 an order is made or resolution is passed for (or any other formal step is taken with a view to commencing) the administration, winding up, bankruptcy or dissolution of the other party (except for the purposes of an amalgamation or reconstruction, the terms of which have been previously notified to and approved by each party);

6.3.4 a voluntary arrangement under section 1 of the Insolvency Act 1986 (as amended) is made in respect of the other party (except for the purposes of an amalgamation or reconstruction, the terms of which have been previously notified to and approved by each party);

6.3.5 the other party makes any arrangement or composition with its creditors generally (except for the purposes of an amalgamation or reconstruction, the terms of which have been previously notified to and approved by each party);

6.3.6 the other party is unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986.

6.4 Save as otherwise is provided in this agreement, the Client and the Company shall cease to be under further obligation under this agreement following its termination provided that termination shall not affect the accrued rights and obligations of the Client and the Company at the date of termination or terms of this agreement expressed or clearly intended to remain in force after termination.

7. HANDOVER AND EXIT

7.1 On the expiry or termination of this agreement (in whole or in part), the Company shall continue if requested by the Client to supply the expired or terminated Services (the "Exit Services") at the Client's request for a maximum of three (3) months from the date of expiry, termination or removal (the "Exit Period").

7.2 Each of the Exit Services shall be supplied on the same terms under this agreement as

- the equivalent Services (including as to performance levels and charges) and this agreement shall continue in full force and effect for the duration of any Exit Period, and each of the Exit Services shall be deemed to be Services for that purpose. The Exit Services shall be provided at existing and agreed cost to the Client, with the only payments required for such services being the charges payable pursuant to this agreement.
- 7.3 The Company shall provide to the Client all reasonable assistance requested by the Client to facilitate the orderly transfer of all or part of the Services back to the Client or to enable a future service provider to take over the provision of all or part of the Services (as applicable), until the end of the Exit Period;
- 7.4 Should any redundancy payments to the Service Providers' employees be required resultant from the termination of the Agreement by the Client, the Client shall pay the Service Provider all redundancy amounts paid to its employees within 7 days from receipt of invoice. The Service Provider is to provide all necessary documentation required as proof of redundancy payments made.
8. INSURANCE
- 8.1 Throughout the term of this agreement the Company will maintain appropriate insurance cover to a maximum amount as specified in the Contract Particulars in respect of the Services under employer's liability and will maintain appropriate insurance cover to a maximum amount as specified in the Contract Particulars in respect of the Services under public liability provided that such insurances are generally available in the UK insurance market at commercially reasonable rates and terms.
9. TUPE ON RETENDERING
- 9.1 The Parties understand that TUPE may apply when this agreement terminates.
- 9.2 If requested by the Client (for itself or for a Replacement Company), the Company will give to the Client full information in writing relating to Transferring Company Employees as follows:
- 9.2.1 the name, length of service and job title of each Transferring Company Employee;
- 9.2.2 the remuneration and terms of employment (including any staff handbook or similar) of each Transferring Company Employee;
- 9.2.3 any disciplinary proceedings or grievances raised by the Transferring Employees within the period of two years from the date of termination of this agreement; and
- 9.2.4 any court or Tribunal case claim or action brought by a Transferring Company Employee within the period of two years from the date of termination of this agreement or which the Client has reasonable grounds to believe a Transferring Employee may bring.
- 9.3 If there is a material change to the information referred to in clause 10.2, the Company will provide the new or revised information to the Client (for itself or for a Replacement Company) within 7 days of the change.
- 9.4 The Company agrees that during any period of notice to terminate this agreement it will not, unless with the Client's prior written consent (which will not be unreasonably withheld or delayed):
- 9.4.1 terminate the employment of any Transferring Company Employee;

- 9.4.2 vary or promise to vary the terms of employment of any Transferring Company Employee (other than pay increases in the ordinary course of business); or
- 9.4.3 increase the numbers of Transferring Company Employees that would transfer to the Client or a Replacement Company under TUPE.
- 9.5 The Client and the Company will in a co-operative and helpful manner comply with any respective obligations under TUPE relating to provision of information and consultation.
- 9.6 The Company warrants to the Client and any Replacement Company that all information provided by the Company under this clause 10 will be true and accurate in all material respects and that no persons are employed or engaged in the provision of the Services other than those included in the information provided by the Company in accordance with this clause 10.
- 9.7 The Company shall comply with all its obligations in respect of the Transferring Company Employees arising under TUPE in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge all obligations, arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date).
- 9.8 The Company shall promptly provide to the Client and any Replacement Company, in writing such information as is necessary to enable the Client, to carry out its duties under regulation 13 of TUPE. The Client shall use reasonable endeavours to procure that the Replacement Company, shall promptly provide to the Company in writing such information as is necessary to enable the Company to carry out its duties under regulation 13 of TUPE.
- 9.9 If either the Client or the Company becomes aware of a claim that may give rise to it (the "beneficiary") having a claim for indemnity under this clause against the other party (the "indemnifying party"), it will promptly tell the indemnifying party and provide such information and assistance as it may request.
- 9.10 At the expense of the indemnifying party, the beneficiary will take such action as the indemnifying party requests in relation to the claim and, if the indemnifying party requires, will entrust the conduct of any litigation or negotiation to the indemnifying party. Indemnity under the clause is conditional on the beneficiary not admitting liability or settling any claim without prior written authority from the indemnifying party.
- 9.11 A Replacement Company may enjoy the benefit and enforce the terms of this clause in accordance with the Contracts (Rights of Third Parties) Act 1999. Notwithstanding this, the Client and the Company do not require the consent of any Replacement Company to rescind or vary this agreement at any time, even if that variation or rescission affects the benefits conferred on such Replacement Company
- 9.12 This clause shall survive termination of the agreement howsoever occurring.
- 9.13 For the purpose of clause 10 the following words shall have the following meanings:

Relevant Transfer	a relevant transfer for the purposes of TUPE;
Relevant Transfer Date	the date on which the Company commences service provision for the Client;
Transferring Employee	in relation to a Former Company, those employees of the Former Company to whom TUPE will apply on the Relevant Transfer Date;

Former Company	means a supplier supplying services to the Client before the Relevant Transfer Date that are the same as or substantially similar to the Services provided for under this agreement (or any part of the Services) and shall include any sub-contractor of such supplier (or any subcontractor of any such sub- contractor);
Employee Liability	means all claims, actions, proceedings, orders, demands, complaints, investigations and any award, compensation, damages tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment.
Transferring Company Employees	those employees of the Company to whom TUPE will apply on the Service Transfer Date;
Replacement Company	any third party supplier of replacement Services appointed by the Client from time to time;
Service Transfer	any transfer of the Services (or any part of the Services), for whatever reason, from the Company to a Replacement Company;
Service Transfer Date	the date on which the Services (or any part of the Services), for whatever reason, transfer from the Company to a Replacement Company;
Working Day	As specified at time of tender

10. LIMITATION ON LIABILITY

10.1 Neither party limits its liability for:

10.1.1 death or personal injury caused by its negligence, or that of its employees, agents or sub-contractors (negligence being as defined in Section 1(1) Unfair Contract Terms Act 1977);

10.1.2 fraud or fraudulent misrepresentation by it or its employees;

10.1.3 breach of any obligation under section 8 of the Supply of Goods (Implied Terms) Act 1973, section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982; or

10.1.4 any other liability to the extent it cannot be limited or excluded by Law.

10.2 Subject to clause 11.1, the Company's maximum aggregate liability arising out of or in connection with this agreement, whether in contract, tort, misrepresentation, restitution, under statute or otherwise, will be limited to 5% of the overall value of this agreement.

10.3 Subject to clauses 11.1, neither party shall be liable to the other party for:

10.3.1 any indirect, special or consequential loss; or

10.3.2 any loss of profits, turnover, business opportunities or damage to goodwill (in each case whether direct or indirect).

11. CHANGE IN LAW

- 11.1 In performing its obligations and exercising its rights under this agreement each party will comply with all Law.
- 11.2 If a Change in Law is to occur or is likely to or may occur either party may give written notice to the other party of that actual or proposed Change in Law.
- 11.3 If a Change in Law occurs or is shortly to occur and that Change in Law requires any changes to be made to the terms of this agreement, the Company will determine the relevant changes which will be the minimum changes reasonably and properly required so that the parties and the Services comply with Law as varied by that Change in Law. The Company will give written notice of those changes to the Client and, with effect from the time required by the relevant change in law, this agreement will be deemed to be varied to incorporate them.
- 11.4 The Client will bear the Change in Law costs. Accordingly if a Change in Law occurs the Charges will be adjusted by an amount and over a period which puts the Company into the equivalent financial position following the relevant Change in Law that it would have been in but for that Change in Law. The Company will give written notice of the adjustment to the Charges to the Client as soon as reasonably practicable.

12. ANTI-SLAVERY

In performing its obligations under the agreement , each party shall and shall ensure that each of its subcontractors shall comply with all applicable laws, statues, regulations and codes from time to time in force relating to the prevention of slavery and human trafficking including the Modern Slavery Act 2015.

13. SUB-CONTRACTING AND ASSIGNMENT

- 13.1 Subject to clause 14.3 neither party shall assign, novate or otherwise dispose of any or all of its rights and obligations under this agreement without the prior written consent of the other party.
- 13.2 In the event that the Company enters into any sub-contract in connection with this agreement it shall:
 - 13.2.1 remain responsible to the Client for the performance of its obligations under the agreement notwithstanding the appointment of any sub-contractor and be responsible for the acts omissions and neglects of its sub-contractors; and
 - 13.2.2 impose obligations on its sub-contractor equivalent to those imposed on it pursuant to this agreement and shall procure that the sub-contractor complies with such terms.
- 13.3 The Company shall be entitled to novate the agreement where:
 - 13.3.1 the specific change in contractor was provided for in the procurement process for the award of this agreement;
 - 13.3.2 there has been a universal or partial succession into the position of the Company, following a corporate restructuring, including takeover, merger, acquisition or insolvency and the Client agrees that it shall do all as is reasonable requested by the Company (at the Company's cost) to effect any such novation.

14. FREEDOM OF INFORMATION

- 14.1 The Company acknowledges that the Client is subject to the requirements of the FOIA and the EIRs. The Company shall:
 - 14.1.1 provide all necessary assistance and cooperation as reasonably requested by the Client to enable the Client to comply with its obligations under the FOIA and EIRs;
 - 14.1.2 transfer to the Client all requests for Information relating to this agreement that it receives as soon as practicable and in any event within 2 Working Days of receipt;
 - 14.1.3 provide the Client with a copy of all Information belonging to the Client requested in the request for information which is in its possession or control in the form that the authority requires within 5 Working Days (or such other period as the authority may reasonably specify) of the Client's request for such Information; and
 - 14.1.4 not respond directly to a request for information unless authorised in writing to do so by the Client.
- 14.2 The Company acknowledges that the Client may be required under the FOIA and EIRs to disclose Information (including commercially sensitive information) without consulting or obtaining consent from the Company. The Client shall take reasonable steps to notify the Company of a request for information (in accordance with the Secretary of State's section 45 Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the FOIA) to the extent that it is legally permissible and reasonably practical for it to do so.
- 14.3 For the purpose of this clause 15 the following words shall have the following meaning:

Commercially Sensitive Information:	The information of a commercially sensitive nature relating to the Company, its intellectual property rights or its business or which the Company has indicated to the authority that, if disclosed by the authority, would cause the Company significant commercial disadvantage or material financial loss.
EIRs:	the Environmental Information Regulations 2004 (SI 2004/3391) together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such regulations.
FOIA:	the Freedom of Information Act 2000, and any subordinate legislation made under the Act from time to time, together with any guidance and/or codes of practice issued by the Information Commissioner or relevant government department in relation to such legislation.
Information:	has the meaning given under section 84 of FOI

15. GENERAL DATA PROTECTION REGULATION (GDPR)

- 15.1 The Company shall (and shall procure that any of its Company's personnel involved in the provision of the agreement shall) comply with any notification requirements under the General Data Protection Regulation (GDPR) and both parties shall duly observe all their obligations under the General Data Protection Regulation (GDPR), which arise in connection with the agreement.

- 15.2 Notwithstanding the general obligation in clause 16.1, where the Company is processing Personal Data as a Data Processor for the Client, the Company shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the General Data Protection Regulation (GDPR); and
- 15.2.1 provide the Client with such information as the authority may reasonably require to satisfy itself that the Company is complying with its obligations under the General Data Protection Regulation (GDPR);
- 15.2.2 promptly notify the Client of any breach of the security measures required to be put in place pursuant to clause 16.2; and
- 15.2.3 ensure it does not knowingly or negligently do or omit to do anything which places the authority in breach of the authority's obligations under the General Data Protection Regulation (GDPR).
- 15.3 The provisions of this clause 16. shall apply during the continuance of the agreement and indefinitely after its expiry or termination.

- 16. GENERAL
- 16.1 No failure or delay by a party to exercise any right or remedy provided under this agreement or by Law shall constitute a waiver of that or any other right or remedy, nor shall it prevent or restrict the further exercise of that or any other right or remedy. No single or partial exercise of such right or remedy shall prevent or restrict the further exercise of that or any other right or remedy.
- 16.2 Except as expressly provided in this agreement, rights and remedies provided under this agreement are in addition to, and not exclusive of, any rights or remedies provided by Law.
- 16.3 If any provision or part-provision of this agreement is or becomes invalid, illegal or unenforceable, it shall be deemed modified to the minimum extent necessary to make it valid, legal and enforceable. If such modification is not possible, the relevant provision or part-provision shall be deemed deleted. Any modification to or deletion of a provision or part-provision under this clause shall not affect the validity and enforceability of the rest of this agreement.
- 16.4 If any provision or part-provision of this agreement is deemed invalid, illegal or unenforceable pursuant to clause 17.3, the parties shall negotiate in good faith to amend such provision so that, as amended, it is legal, valid and enforceable, and, to the greatest extent possible, achieves the intended commercial result of the original provision.
- 16.5 The Company and Client shall each:
 - 16.5.1 comply with all applicable laws, statutes, regulations, and codes relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 (Relevant Requirements);
 - 16.5.2 have and shall maintain in place throughout the term of this agreement its own policies and procedures, including but not limited to adequate procedures under the Bribery Act 2010, to ensure compliance with the Relevant Requirements, and will enforce them where appropriate; and
 - 16.5.3 promptly report to the other party any request or demand for any undue financial or

other advantage of any kind received by that party in connection with the performance of this agreement.

17. PARTNERSHIP OR AGENCY

17.1 Nothing in this agreement is intended to, or shall be deemed to, establish any partnership or joint venture between any of the parties, constitute any party the agent of another party, or authorise any party to make or enter into any commitments for or on behalf of any other party except as expressly provided in this agreement.

17.2 Each party confirms it is acting on its own behalf and not for the benefit of any other person.

18. THIRD PARTY RIGHTS

18.1 The parties do not intend that any term of this agreement will be enforceable under the Contracts (Rights of Third Parties) Act 1999 by any person.

18.2 The rights of the parties to terminate, rescind or agree any variation, waiver or settlement under this agreement are not subject to the consent of any other person.

19. CONFIDENTIALITY

19.1 In this Agreement "Confidential Information" means, subject to clause 20.3.2:

19.1.1 any information (whether written, oral, in electronic form or in any other media) that is disclosed in connection with this agreement by or on behalf of a party (the "**Discloser**") (or one of the Discloser's representatives including the Discloser's group company, officers, directors, employees, consultants and professional advisers ((the "**Discloser's Representative**"))) to the other party (the "**Recipient**") (or any of the Recipient's representatives including the Recipient's group company, officers, directors, employees, consultants and professional advisers ((the "**Recipient's Representative**"))) whether before, on or after the date of this agreement and that relates (in whole or in part) to the Discloser or any of the Discloser's group companies or its (or their) businesses; and

19.1.2 the terms of or subject matter of this agreement or any discussions or documents in relation to it, and in respect of such information each party will be deemed to be a Recipient.

19.2 The Recipient will at all times, but subject to clauses 20.3 and 20.3.2:

19.2.1 keep the Confidential Information secret and will only disclose it in the manner and to the extent expressly permitted by this clause 20;

19.2.2 use the Confidential Information solely for the purpose of performing its obligations and exercising its rights under this agreement;

19.2.3 only make such copies, summaries, extracts, transcripts, notes, reports, analyses and recordings (in any form of media) that use, contain or are based on (or derived from) Confidential Information as are reasonably necessary to perform its obligations and exercise its rights under this agreement ;and

19.2.4 keep the Confidential Information safe and secure and apply to it documentary and electronic security measures that match or exceed those the Recipient operates in relation to its own confidential information and will never exercise less than reasonable care.

- 19.3 The Recipient may disclose Confidential Information:
- 19.3.1 subject to clause 20, to those of the Recipient's Representatives who need access to that Confidential Information in order for the Recipient's obligations under this agreement to be performed and the Recipient's rights under this agreement to be exercised. Prior to any such disclosure the Recipient must make that Recipient's Representative aware of the fact that the Confidential Information is confidential and the obligations of confidentiality contained in this clause 20 and (unless that Recipient's Representative is an employee, director or officer of the Recipient) the Recipient will procure that such Recipient's Representative will enter into a confidentiality agreement with the Recipient on terms substantially equivalent to those contained in this clause 20. The Recipient will take reasonable steps to procure that each of the Recipient's Representatives will not do or omit to do anything which if done or omitted to be done by the Recipient would constitute a breach of this clause 20. The Recipient will be liable for the acts and omissions of its Recipient's Representatives in respect of the Discloser's Confidential Information as if they were acts or omissions of the Recipient; and
- 19.3.2 to the extent required by Law or by any governmental or regulatory authority. Where reasonably practicable and lawful the Recipient will notify the Discloser in writing in advance of such disclosure, will consult with the Discloser as to the content, purpose and means of disclosure and will seek to make such disclosure subject to obligations of confidence consistent, so far as reasonably possible, with the terms of this agreement.
- 19.4 Subject to clause 20.5, the Recipient's obligations under this clause 20 will not extend to Confidential Information which:
- 19.4.1 the Discloser agrees in writing is not Confidential Information;
- 19.4.2 at the time of disclosure was in the public domain or subsequently enters into the public domain other than as the direct or indirect result of a breach of this clause 20 by the Recipient or any of the Recipient's Representatives;
- 19.4.3 the Recipient can prove to the reasonable satisfaction of the Discloser from written records or other substantive evidence:
- 20.4.3.1 has been received by the Recipient (or one of the Recipient's Representatives) at any time from a third party who did not acquire it in confidence and who is free to make it available to the Recipient (or the relevant Recipient's Representatives) ; or
- 20.4.3.2 was independently developed by the Recipient (or one of the Recipient's Representatives) without any breach of this Agreement.
- 19.5 Clause 20.4.3 will not apply to the Confidential Information referred to in clause 20.1.2.

20. NOTICES

- 20.1 Any notice or other communication given to a party under or in connection with this contract shall be in writing marked for the attention of the party's authorised representative and shall be:
- 20.1.1 delivered by hand or by pre-paid first-class post or other next working day delivery service at the address noted in the Contract Particulars; or
- 20.1.2 sent by e-mail to the e-mail address noted in the Contract Particulars.
- 20.2 Any notice or communication shall be deemed to have been received:
- 20.2.1 if delivered by hand, on signature of a delivery receipt or at the time the notice is left at

- the proper address;
- 20.2.2 If sent by pre-paid first-class post or other next working day delivery service, at 9.00 am on the second Working Day after posting or at the time recorded by the delivery service.
 - 20.2.3 if sent by fax, at 9.00 am on the next Working Day after transmission.
 - 20.3 This clause does not apply to the service of any proceedings or other documents in any legal action or, where applicable, any arbitration or other method of dispute resolution.

21. ENTIRE AGREEMENT

- 21.1 This agreement, the schedules and the documents annexed to it or otherwise referred to in it constitutes the entire agreement between the parties and supersedes and extinguishes all previous agreements, promises, assurances, warranties, representations and understandings between them, whether written or oral, relating to its subject matter.
- 21.2 Each party agrees that it shall have no remedies in respect of any statement, representation, assurance or warranty (whether made innocently or negligently) that is not set out in this agreement. Each party agrees that it shall have no claim for innocent or negligent misrepresentation based on any statement in this agreement.

22. COUNTERPART

This agreement may be executed in any number of counterparts, each of which when executed and delivered shall constitute an original of this agreement, but all the counterparts shall together constitute the same agreement. No counterpart shall be effective until each party has executed at least one counterpart.

23. GOVERNING LAW

This agreement and any dispute or claim arising out of or in connection with it or its subject matter or formation (including non-contractual disputes or claims) shall be governed by and construed in accordance with the law of England and Wales.

24. DISPUTE RESOLUTION

- 24.1 If a dispute arises out of, or in connection with, this agreement between the Client and the Company which cannot be resolved by the Client Representative and the Company Representative within twenty (20) days of the dispute arising it shall be dealt with in accordance with clauses 25.1 to 25.2 below.
- 24.2 In the first instance each of the Client and the Company shall arrange for a more senior representative than those referred to in clause 25.1 to meet solely in order to resolve the dispute.
- 24.3 If the meeting(s) referred to in clause 25.1 does not resolve the matter in question, then the Client and the Company will attempt to settle it by mediation in accordance with the CEDR Model Mediation Procedure.

25. JURISDICTION

Each party irrevocably agrees that the courts of England and Wales shall have exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this agreement or its subject matter or for or (including non-contractual disputes or claims).