



Terms and Conditions for the supply of goods and services

1 Definitions

1.1 In these terms and conditions the following expressions shall have the following meanings unless inconsistent with the context:

Commencement Date means the date the Contract commences, as set out in the Order or if not specified the date seven (7) days after the Order Date.

Completion Date the date the Goods are delivered by and/or the Services are completed as specified in the Order either expressly or by reference to the Supplier's quotation or in writing and signed or, if no such date is specified, then within the fourteen (14) day period following the Order Date or fourteen (14) days after the end of the Initial Term where applicable.

Conditions means these terms and conditions as amended from time to time in accordance with clause 20.8.

Contract means the agreement between Customer and the Supplier which incorporates these Conditions, the Numbered Documents and the requirements set out in the Order.

Customer means Adra (Tai) Cyfyngedig (an Industrial and Provident Society registered in England and Wales with the registration number IP30776R) whose registered office is at Ty Coch, Lllys y Dderwen, Parc Menai, Bangor, LL57 4BL.

Customer Representative means the Customer's representative who has been corresponding with the Supplier for the purposes of forming the Contract and any additional or alternative persons and/or contact details (e.g. email, telephone) notified to the Supplier in writing.

Customer Materials has the meaning given to it in clause 5.3.10.

Data Protection Legislation means all applicable Legislation relating to the processing of Personal Data and privacy including (i) the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (the "UK GDPR"), the Data Protection Act 2018 and any subsequent legislation enacted and duly in force from time to time; and (ii) all guidance and codes of practice issued by the Information Commissioner.

Deliverables means all documents, products and materials developed by the Supplier or its agents, contractors and employees as part of or in relation to the Services in any form or media, including without limitation drawings, maps, plans, diagrams, designs, pictures, computer programs, data, specifications and reports (including drafts).

Extension Period has the meaning given to it in clause 2.2.

Goods means the goods (or any part of them) set out in the Specification.

Initial Term means the period commencing on the Commencement Date and ending on the Completion Date or the length of initial term identified in the Order or agreed in writing and signed by the Customer and the Supplier.

Intellectual Property Rights means all intellectual property rights (including without limitation patents, trademarks, designs, design rights, copyright, inventions, trade secrets, know-how and confidential information) and all applications for protection of any of the same.

Legislation means all laws, statutory instruments, regulations in force from time to time in the United Kingdom.

Numbered Document(s) means the additional documents which form part of the Contract including some or all of but not limited to:

- (a) the Specification;
- (b) the Price Framework
- (c) the Qualitative Submission and
- (d) the SV calculator.

Order means the Customer's written instructions in the form of the document titled Official Order provided to the Supplier to supply Goods and/or Services incorporating these Conditions.

Order Date means the date the Order is placed as identified on the Order.

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

Price Framework means the pricing strategy framework to be used for the Goods and/or the Services agreed in writing by the Customer and the Supplier and as set out in the Numbered Documents.

Qualitative Submission means the qualitative submission for the Goods and/or the Services agreed in writing by the Customer and the Supplier and as set out in the Numbered Documents.

Services mean any services, duties and responsibilities, including without limitation any Deliverables, to be provided, performed and observed by the Supplier pursuant to the Contract as set out in the Specification.

Specification means the description or specification for



(e) The Goods, including any related plans and drawings; and / or

(f) The Services

agreed in writing by the Customer and the Supplier and as set out in the Numbered Documents.

Supplier means the person, firm or company to whom the Order is addressed.

Supplier Representative means the Supplier's representative who has been corresponding with the Customer for the purposes of forming the Contract and any additional or alternative persons and/or contact details (e.g. email, telephone) notified to the Customer in writing.

SV calculator means the social value TOMs calculator provided by the Supplier in accordance with clause 19 and as agreed by the Customer and the Supplier in writing.

Working Day means Monday to Friday inclusive but not including any public holiday.

VAT means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement or added tax.

1.2 A reference to a particular law is a reference to it as it is in force for the time being taking account of any amendment, extension, application or re-enactment and includes any subordinate legislation for the time being in force made under it.

1.3 Condition headings do not affect the interpretation of these Conditions.

2 Commencement and Term

2.1 This Contract shall commence on the Commencement Date and shall continue, unless extended in accordance with this clause 2 or terminated earlier in accordance with its terms, until the expiry of the Initial Term, when it shall terminate automatically without notice.

2.2 The Customer may extend this Contract in addition to the Initial Term by up to the same length as the Initial Term (the "**Extension Period**"). If the Customer wishes to extend this Contract, it shall give the Supplier at least three months' written notice of such extension before the expiry of the Initial Term or Extension Period.

2.3 If the Customer gives such notice then the Contract shall be extended by the period set out in the notice.

2.4 If the Customer does not wish to extend this Contract beyond the Initial Term this Contract shall expire on the expiry of the Initial Term.

2.5 If the Customer does extend the Initial Term, then it shall do so on the same terms and conditions as set out in this Contract.

2.6 The Supplier acknowledges that no form of exclusivity or volume guarantee has been granted by the Customer for the supply of Goods and / or Services and that the Customer is at all times entitled to enter into other contracts and arrangements with other suppliers for the provision of any or all goods which are the same or similar to the Goods and all services which are the same as or similar to the Services.

2.7 At least 7 days prior to the Commencement Date or at any alternative time agreed in writing, the Supplier will provide any pre-commencement Deliverables required by the Customer to include method statements and/or risk assessments and evidence in the form of a broker's certificate or insurance policy certificate of the Supplier's insurance policies which are to be taken out and held by the Supplier in accordance with clause 9.2 of these Conditions.

3 Supply of Goods

3.1 The Supplier shall ensure that the Goods shall:

3.1.1 correspond with their description and any applicable Specification;

3.1.2 be of satisfactory quality (within the meaning of the Sale of Goods Act 1979) and fit for any purpose held out by the Supplier or made known to the Supplier by the Customer, expressly or by implication, and in this respect the Customer relies on the Supplier's skill and judgment;

3.1.3 where applicable, be free from defects in design, materials and workmanship and remain so for twelve (12) months after delivery; and

3.1.4 comply with all applicable statutory and regulatory requirements relating to the manufacture, labelling, packaging, storage, handling and delivery of the Goods.

3.2 The Supplier shall ensure that at all times it has and maintains all the licences, permissions, authorisations, consents and permits that it needs to carry out its obligations under the Contract in respect of the Goods.

3.3 The Customer shall have the right to inspect and test the Goods at any time before or after delivery.

3.4 If following such inspection or testing the Customer considers that the Goods do not conform or are unlikely to comply with the Supplier's undertakings at clause 3.1, the Customer shall inform the Supplier and the Supplier shall immediately take such remedial action as is necessary to ensure compliance.

3.5 Notwithstanding any such inspection or testing, the Supplier shall remain fully responsible for the Goods and any such



inspection or testing shall not reduce or otherwise affect the Supplier's obligations under the Contract, and the Customer shall have the right to conduct further inspections and tests after the Supplier has carried out its remedial actions.

4 Deliveries

4.1 The Supplier shall ensure that:

4.1.1 the Goods are properly packed and secured in such manner as to enable them to reach their destination in good condition;

4.1.2 each delivery of Goods is accompanied by a delivery note which shows the order number, the type and quantity of Goods (including the code number of the Goods, where applicable), special storage instructions (if any) and, if the relevant Order is being delivered by instalments, the outstanding balance of Goods remaining to be delivered; and

4.1.3 if the Supplier requires the Customer to return any packaging material to the Supplier, that fact is clearly stated on the delivery note. Any such packaging material shall be returned to the Supplier at the cost of the Supplier.

4.2 The Supplier shall deliver the Goods:

4.2.1 on the date specified in the Order either expressly or by reference to the Supplier's quotation or, if no such date is specified, then within 14 days of the Order Date;

4.2.2 to the location as is specified in the Order (**Delivery Location**);

4.2.3 during the Customer's normal hours of business on a Working Day, or as instructed by the Customer.

4.3 Delivery notes must be supplied with every delivery against an Order. Every delivery note and all correspondence must quote Customer's Order Number and must provide the full contact name, address and telephone number of the Supplier.

4.4 Delivery of the Goods shall be completed on the completion of unloading of the Goods at the Delivery Location.

4.5 If the Supplier fails to deliver the correct quantity of Goods ordered, the Customer reserves the right to reject the Goods or the excess Goods delivered, and any rejected Goods shall be returnable at the Supplier's risk and expense. If the Supplier delivers more or less than the quantity of Goods ordered, and the Customer accepts the delivery, a pro rata adjustment shall be made to the invoice for the Goods.

4.6 The Supplier shall not deliver the Goods in instalments without the Customer's prior written consent. Where it is agreed that the Goods are delivered by instalments, they may be invoiced and paid for separately. However, failure by the Supplier to deliver any one instalment on time or at all or any

defect in an instalment shall entitle the Customer to the remedies set out in clause 6.

4.7 Without prejudice to any right of return or rejection that the Customer may have under these Conditions, title and risk in the Goods shall pass to the Customer on completion of delivery.

4.8 Unless expressly agreed in writing otherwise, time shall be of the essence for the supply of Goods and/or Services.

4.9 If there is, or is likely to be, any delay in completing an Order the Supplier shall give written notice to the Customer giving the reasons for any actual or anticipated delay and details of any alternative delivery dates proposed. The Customer may in its absolute discretion waive its rights under clause 4.7 and may grant in writing a reasonable extension of time for delivery if and to the extent that in the reasonable opinion of Customer the delay is solely due to a cause beyond the Supplier's control and such delay will not materially adversely affect the value and/or purpose of the Goods and/or Services.

5 Services

5.1 The Supplier shall from the Commencement Date and for the duration of this Contract provide the Services to the Customer in accordance with the terms of the Contract.

5.2 The Supplier shall meet any performance dates for the Services specified in the Order or in the Supplier's quotation or notified to the Supplier by the Customer.

5.3 In providing the Services, the Supplier shall:

5.3.1 co-operate with the Customer in all matters relating to the Services, and comply with all reasonable instructions of the Customer;

5.3.2 perform the Services with the highest level of skill, care and diligence in accordance with best practice in the Supplier's industry, profession or trade;

5.3.3 use personnel who are suitably skilled and experienced to perform tasks assigned to them, and in sufficient number to ensure that the Supplier's obligations are fulfilled in accordance with this Contract;

5.3.4 perform the Services in accordance with all applicable statutory obligations for the time being in force including (without limitation) those relating to health, safety and welfare, environment and well-being of future generations, bribery, modern slavery, employment rights and relations, working rights, human rights, data protection and equality;

5.3.5 ensure that the Services and Deliverables will conform with all descriptions and specifications set out in the Specification, and that the Deliverables shall be fit for any purpose



expressly or impliedly made known to the Supplier by the Customer;

5.3.6 provide all equipment, tools and vehicles and such other items as are required to provide the Services;

5.3.7 use the best quality goods, materials, standards and techniques, and ensure that the Deliverables, and all goods and materials supplied and used in the Services or transferred to the Customer, will be free from defects in workmanship, installation and design;

5.3.8 obtain and at all times maintain all necessary licences and consents, and comply with all applicable laws and regulations;

5.3.9 observe all health and safety rules and regulations and any other security requirements that apply at any of the Customer's premises;

5.3.10 hold all materials, equipment and tools, drawings, specifications and data supplied by the Customer to the Supplier (**Customer Materials**) in safe custody at its own risk, maintain the Customer Materials in good condition until returned to the Customer, and not dispose or use the Customer Materials other than in accordance with the Customer's written instructions or authorisation; and

5.3.11 not do or omit to do anything which may cause the Customer to lose any licence, authority, consent or permission upon which it relies for the purposes of conducting its business, and the Supplier acknowledges that the Customer may rely or act on the Services.

5.4 Without limiting the general obligation set out in clause 5.3, the Supplier warrants and undertakes that it shall (and shall procure that the Supplier's personnel shall):

5.4.1 at all times comply with the provisions of the Human Rights Act 1998 in the performance of this Contract. The Supplier shall also undertake, or refrain from undertaking, such acts as the Customer requests so as to enable the Customer to comply with its obligations under the Human Rights Act 1998;

5.4.2 not unlawfully discriminate within the meaning and scope of any law, enactment, order or regulation relating to discrimination in employment;

5.4.3 comply with all relevant Legislation and guidance and shall use all endeavours to ensure that there is no slavery or human trafficking in its supply chains;

5.4.4 notify the Customer immediately if it becomes aware of any actual or suspected incidents of slavery or human trafficking in its supply chains;

5.4.5 at all times conduct its business in a manner that is consistent with any anti-slavery policy of the Customer and shall provide

to the Customer any reports or other information that the Customer may request as evidence of the Supplier's compliance with this Clause 5.4.5 and / or as may be requested or otherwise required by the Customer in accordance with its anti-slavery policy.

5.5 Without limiting the general obligation set out in clause 5.3, the Supplier shall not operate its business in a manner which may in the opinion of the Customer bring the Customer into disrepute.

6 Customer Remedies

6.1 If the Supplier fails to deliver the Goods in accordance with clauses 3 and 4 and/or perform the Services in accordance with clause 5 by the Completion Date, the Customer shall, without limiting its other rights or remedies, have one or more of the following rights:

6.1.1 to terminate the Contract or the relevant Order with immediate effect by giving written notice to the Supplier;

6.1.2 to refuse to accept any subsequent performance of the Services and/or delivery of the Goods which the Supplier attempts to make;

6.1.3 to recover from the Supplier any costs incurred by the Customer in obtaining substitute Goods and/or Services from a third party;

6.1.4 where the Customer has paid in advance for Services that have not been provided by the Supplier and/or Goods which have not been delivered by the Supplier, to have such sums refunded by the Supplier; and

6.1.5 to claim damages for any additional costs, loss or expenses incurred by the Customer which are in any way attributable to the Supplier's failure to meet such dates.

6.2 If the Supplier has delivered Goods that do not comply with the undertakings set out in clause 3.1, then, without limiting its other rights or remedies, the Customer shall have one or more of the following rights, whether or not it has accepted the Goods:

6.2.1 to reject the Goods (in whole or in part) whether or not title has passed and to return them to the Supplier at the Supplier's own risk and expense;

6.2.2 to terminate the Contract with immediate effect by giving written notice to the Supplier;

6.2.3 to require the Supplier to repair or replace the rejected Goods, or to provide a full refund of the price of the rejected Goods (if paid);

6.2.4 to refuse to accept any subsequent delivery of the Goods which the Supplier attempts to make;



- 6.2.5 to recover from the Supplier any expenditure incurred by the Customer in obtaining substitute Goods from a third party; and
- 6.2.6 to claim damages for any additional costs, loss or expenses incurred by the Customer arising from the Supplier's failure to supply Goods in accordance with clause 3.1.
- 6.3 These Conditions shall extend to any substituted or remedial services and/or repaired or replacement Goods supplied by the Supplier.
- 6.4 The Customer's rights under this Contract are in addition to its rights and remedies implied by statute and common law.
- 7 Customer's Obligations**
- 7.1 The Customer shall:
- 7.1.1 provide the Supplier with reasonable access at reasonable times to the Customer's premises for the purpose of providing the Services; and
- 7.1.2 provide such information as the Supplier may reasonably request for the provision of the Services and the Customer considers reasonably necessary for the purpose of providing the Services.
- 8 Charges and Payment**
- 8.1 The price for the Goods shall be the price set out in the Order, or if no price is quoted, the price set out in the Supplier's published price list as provided to the Customer and shall be inclusive of all other charges required to provide the Goods in accordance with this Contract (including but not limited to costs of packaging, insurance and carriage of the Goods).
- 8.2 The charges for the Services shall be the price set out in the Order, or if no price is quoted, the charges for the Services set out in the Supplier's published price list in force at the date this Contract is signed by both parties.
- 8.3 The Supplier shall send an invoice either electronically in pdf format (not protected) to cyllidd@adra.co.uk or to the postal address given at the head of the Order for the attention of Accounts Payable.
- 8.4 No extra charges shall be effective unless agreed in writing and signed by the Customer.
- 8.5 The due date for a payment is the later of:
- 8.5.1 Twenty-one (21) days following receipt by the party making payment of a valid invoice; or
- 8.5.2 Twenty-one (21) days after the Order Date and thereafter the same date each month or an alternative date agreed by the Customer and the Supplier in writing.
- 8.6 The final date for payment is seven (7) days after the date on which a payment becomes due, or a different period for payment if agreed in writing by the Customer and the Supplier.
- 8.7 In respect of Goods, the Supplier shall invoice the Customer on or at any time after completion of delivery but within the 7 days following the Completion Date. In respect of Services, the Supplier shall invoice the Customer on completion of the Services. Each invoice shall include such supporting information required by the Customer to verify the accuracy of the invoice, including but not limited to the relevant purchase order number, date of delivery or completion, delivery/advice note number (where applicable) and be addressed to the invoice address on the Order.
- 8.8 In consideration of the supply of Goods and/or Services by the Supplier, the Customer shall, subject to clause 8.9, pay the invoiced amounts within thirty (30) days of the date of a correctly rendered invoice to a bank account nominated in writing by the Supplier.
- 8.9 Where the Supplier enters into a subcontract with a supplier or contractor for the purpose of performing the Contract, it shall cause a term to be included in such a subcontract that requires payment to be made of undisputed sums by the Supplier to the subcontractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice, as defined by the subcontract requirements.
- 8.10 Where the Supplier has indicated that it will accept payment by purchasing card either through the submission of a selection questionnaire or tender the amount charged to the card shall be no more than the rates tendered by the Supplier ("Purchasing Card"). For the avoidance of doubt the Supplier shall not be allowed to include any administration fee in the amount payable by the Customer that the Supplier's payment acquiring company charge the Supplier for accepting payment by Purchasing Card.
- 8.11 All amounts payable by the Customer under the Contract are exclusive of amounts in respect of valued added tax chargeable from time to time (VAT). Where any taxable supply for VAT purposes is made under the Contract by the Supplier to the Customer, the Customer shall, on receipt of a valid VAT invoice from the Supplier, providing the Supplier's VAT registration number, pay to the Supplier such additional amounts in respect of VAT as are chargeable on the supply of the Goods and/or Services at the same time as payment is due for the supply of the Goods and/or Services.
- 8.12 Payment or part payment for Goods specified in the Order does not mean that the Customer has accepted that the supplied goods are of the description, quality and quantity ordered. Such payment will not prejudice the Customer's right to reject the Goods at a later date.
- 8.13 If the Customer fails to pay any amount properly due and payable by it under the Contract, the Supplier shall have the



right to charge interest on the overdue amount at the rate of 3 per cent per annum above the bank rate for the time being of the Bank of England accruing on a daily basis from the due date for payment identified in the Order up to the date of actual payment, whether before or after judgment. The Supplier acknowledges that such rate is a substantial remedy for late payment as defined in the Late Payment of Commercial Debts (Interest) Act 1998. This clause shall not apply to payments that the Customer disputes in good faith.

- 8.14 The Supplier shall maintain complete and accurate records of the time spent and materials used by the Supplier in providing the Services, and the Supplier shall allow the Customer to inspect such records at all reasonable times on request.
- 8.15 The Customer may, without limiting its other rights or remedies, set off any amount owing to it by the Supplier against any amount payable by the Customer to the Supplier under this Contract or any other contract between the Customer and the Supplier.

9 Indemnity

9.1 The Supplier shall keep the Customer indemnified in full against all costs, expenses, damages and losses (whether direct or indirect), including any interest, fines, legal and other professional fees and expenses awarded against or incurred or paid by the Customer as a result of or in connection with:

- 9.1.1 any claim made against the Customer by a third party for death, personal injury or damage to property arising out of, or in connection with, defects in Goods, to the extent that the defect in the Goods is attributable to the acts or omissions of the Supplier, its employees, agents or subcontractors;
- 9.1.2 any claim made against the Customer by a third party arising out of, or in connection with, the supply of the Goods or Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of the Contract by the Supplier, its employees, agents or subcontractors; and
- 9.1.3 any claim made against the Customer for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with, the manufacture, supply or use of the Goods, or receipt, use or supply of the Services.

9.2 For the duration of the Contract and for a period of one (1) year thereafter, the Supplier shall maintain in force, with a reputable insurance company:

- 9.2.1 professional indemnity insurance for not less than £2 million for each and every claim; and
- 9.2.2 employer liability insurance for not less than £5 million for each and every claim; and

9.2.3 product liability insurance (as applicable) for not less than £5 million for each and every claim; and/or

9.2.4 public liability insurance for not less than £5 million per claim, with no limit on the number of such claims and to cover the liabilities that may arise under or in connection with the Contract and shall, on the Customer's request, produce both the insurance certificate giving details of cover and the receipt for the current year's premium in respect of each insurance.

9.3 For the avoidance of doubt, the Supplier shall not be liable to indemnify the Customer for any loss, damage or injury to the extent that the same arises directly and solely out of or in connection with any act or omission of the Customer, its employees, agents or subcontractor.

9.4 This clause 9 shall survive termination of the Contract.

10 Confidentiality

10.1 A party (**Receiving Party**) shall keep in strict confidence all technical and/or commercial know-how, specifications, inventions, processes or initiatives which are of a confidential nature and have been disclosed to the Receiving Party by the other party (**Disclosing Party**), its employees, agents or subcontractors, and any other confidential information concerning the Disclosing Party's business or its products or its services which the Receiving Party may obtain.

10.2 The Receiving Party shall restrict disclosure of such confidential information to such of its employees, agents or subcontractors as need to know it for the purpose of discharging the Receiving Party's obligations under the Contract, and shall ensure that such employees, agents or subcontractors are subject to obligations of confidentiality corresponding to those which bind the Receiving Party.

10.3 This clause 10 shall survive termination of the Contract.

11 Intellectual Property

11.1 In respect of the Goods and any goods that are transferred to the Customer as part of the Services under this Contract, including without limitation the Deliverables or any part of them, the Supplier warrants that it has full clear and unencumbered title to all such items, and that at the date of delivery of such items to the Customer, it will have full and unrestricted rights to sell and transfer all such items and title to the Customer.

11.2 The Supplier assigns to the Customer, with full title guarantee and free from all third party rights, all Intellectual Property Rights in the products of the Services, for the avoidance of doubt including the Deliverables.

11.3 The Supplier shall obtain waivers of all moral rights in the products, for the avoidance of doubt including the



Deliverables, of the Services to which any individual is now or may be at any future time entitled under Chapter IV of Part I of the Copyright Designs and Patents Act 1988 or any similar provisions of law in any jurisdiction.

11.4 The Supplier shall, promptly at the Customer's request, do (or procure to be done) all such further acts and things and the execution of all such other documents as the Customer may from time to time require for the purpose of securing for the Customer the full benefit of the Contract, including all rights, titles and interests in and to the Intellectual Property Rights assigned to the Customer in accordance with clause 11.2.

11.5 The Supplier warrants that the receipt, use and onward supply of the Services and the Deliverables (excluding the Customer Materials) by the Customer and its permitted sub-licensees shall not infringe the rights, including any Intellectual Property Rights, of any third party.

11.6 All Customer Materials are the exclusive property of the Customer.

11.7 The Customer grants to the Supplier a fully paid-up, non-exclusive, royalty-free, non-transferable licence to copy and modify the Customer Materials for the term of this agreement for the purpose of providing the Services to the Customer.

12 Health and Safety

12.1 The Supplier in supplying the Goods and/or Services shall have full regard for the safety of persons who may be affected in any way in relation to the Goods and/or Services and shall comply with the requirements of the Health and Safety at Work Act 1974 and its subordinate regulatory framework, and of any other Acts pertaining to the health and safety of persons.

12.2 The Supplier shall conduct all necessary tests and examinations prior to delivery of the Goods to ensure that the Goods are designed, constructed and delivered so as to be safe and without risk to the health or safety of persons using them. The Supplier shall give the Customer adequate information about the use for which the Goods have been designed and has been tested and about any conditions necessary to ensure that when put to use the Goods will be safe and without risk to health.

12.3 Throughout the progress of any delivery of the Goods and/or Services, the Supplier shall keep the Customer's premises or site in an orderly state and shall provide and maintain at its own cost all lights, guards, fencing and warning signs and any other systems required for the protection of the Works and the safety and convenience of the public and others.

12.4 The Customer requires a demonstration of robust contingency plans by appropriate means by the Supplier. The Supplier must satisfy the officer commissioning the Goods and/or Services that it has a Business Continuity Planning Policy with tested contingency arrangements in place.

Depending on the importance and scale of the Goods/ and/or Services to be provided the Customer reserves the right to request detailed evidence of the Supplier's contingency plans such as sight of the Supplier's Business Continuity Plan, the Supplier's attendance at any contingency exercise or to conduct an audit of the Supplier's contingency arrangements (examples of what an effective Business Continuity Plan should include can be provided on request).

13 Equal Opportunities, Ombudsman Investigations and Human Rights Safeguarding

13.1 The Supplier shall not unlawfully discriminate within the meaning and scope of the provisions of the Equalities Act 2010 or any statutory modification or re-enactment thereof relating to discrimination in the provision of services to the public or in employment or contravene the Human Rights Act 1998. The Supplier shall to the extent relevant to delivery of the Contract comply with the Customer's equal opportunities policies, which are available by contacting enquiries@adra.co.uk. The Supplier shall take all reasonable steps to secure the observance of these provisions by all employees or agents of the Supplier and all sub-Suppliers employed in the execution of the Contract.

13.2 If either the Customer's internal or external auditors shall wish to investigate the Contract, then the Supplier shall provide such information, access and co-operation as those persons may reasonably require.

13.3 The Supplier in delivering the Contract will be fully compliant with the statutory duty of the Customer (including the Children's Act 2004 and Safeguarding Vulnerable Groups Act 2006) to safeguard and promote the welfare of children, young people and vulnerable adults when on the Customer's premises or properties where these groups may be present. The Supplier will ensure that all of their staff understand the duty placed on them to safeguard and promote the welfare of these vulnerable groups. Furthermore, the Supplier will ensure that all their staff understand that children and vulnerable adults may perceive workers on site as people who are trustworthy. These workers, therefore, have a duty to conduct themselves in a way, which will not breach this trust. The Supplier will ensure that their workers are appointed in line with the Customer's safe recruitment processes. The Supplier will provide proof of registration with the Disclosure and Barring Service and will comply strictly with any associated procedures, including those for any risk assessment.

13.4 The Supplier will undertake Disclosure and Barring Service (DBS) Disclosure checks for all staff where applicable and records will be kept as evidence that such checks have been undertaken. No payments will be made in accordance with the Contract and the Customer has the right to withhold such payment until proof of registration with the Disclosure and Barring Service has been obtained. The Supplier is liable for any costs incurred. The Customer reserves the right to require the Supplier to produce evidence that a worker has



been subject to an enhanced DBS Disclosure check when necessary. Continued failure to comply with this clause 13.4 will be considered a persistent breach and may result in termination of this Contract.

13.5 All of the Supplier's employees, representatives, agents, workers, subcontractors, subcontractors' employees, subcontractors' representatives, subcontractors' agents, subcontractors' workers, or any person engaged in connection with this Contract (together the "Staff") will carry photographic identification with them at all times. The Customer reserves the right to monitor rigorously the conduct of Staff during the course of their work with it. The maltreatment, neglect or abuse of a child, young person or vulnerable adult by any Staff may lead to a warning being issued to the Supplier, or in cases of serious negligence by the Supplier, a cancellation of the Contract. The Customer reserves the right to immediately and permanently remove any member of Staff from the premises or site relevant to the performance of the Contract and/or from their involvement in the Contract.

14 Freedom of Information and Transparency

14.1 The Supplier acknowledges that the Customer has obligations relating to the disclosure of information pursuant to the Freedom of Information Act 2000 ("FOIA") and the Environmental Information Regulations 2004. The Supplier shall co-operate with and assist the Customer so as to enable the Customer to comply with its information disclosure obligations.

14.2 The Supplier shall:

14.2.1 transfer to the Customer all requests for information that it receives as soon as practicable and in any event within two (2) Working Days of receiving a request for information;

14.2.2 provide the Customer with a copy of all information in its possession or power in the form that the Customer requires within five (5) Working Days (or such other period as the Customer may specify) of the Customer's request;

14.2.3 provide all necessary assistance as reasonably requested by the Customer to enable the Customer to respond to the request for information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations; and

14.2.4 procure that its subcontractors do likewise.

14.3 The Customer is responsible for determining in its absolute discretion whether any information is exempt from disclosure in accordance with the provisions of FOIA or the Environmental Information Regulations.

14.4 The Supplier does not respond directly to a request for information unless authorised to do so by the Customer.

14.5 The Supplier acknowledges that the Customer may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000, be obliged to disclose information without consulting or obtaining consent from the Supplier or despite the Supplier having expressed negative views when consulted.

14.6 The Supplier shall ensure that all information is retained for disclosure throughout the period for retention of 12 years and permits the Customer to inspect such records as and when reasonably requested from time to time and within a reasonable time from the request to do so, such reasonable time shall not exceed ten (10) working days.

15 Data Protection

15.1 The parties shall comply with their data protection obligations in accordance with the Data Protection Legislation and with the Customer's data protection policy (available on the Customer's website with copies provided on request and as updated from time to time).

16 Termination

16.1 Without limiting its other rights or remedies, the Customer may terminate the Contract with immediate effect by giving written notice to the Supplier if:

16.1.1 the Supplier commits a material or persistent breach of the Contract and (if such a breach is remediable) fails to remedy that breach within seven (7) days of receipt of being notified in writing to do so;

16.1.2 the Supplier suspends, or threatens to suspend, payment of its debts or is unable to pay its debts as they fall due or admits inability to pay its debts or (being a company) is deemed unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986 or (being an individual) is deemed either unable to pay its debts or as having no reasonable prospect of so doing, in either case, within the meaning of section 268 of the Insolvency Act 1986 or (being a partnership) has any partner to whom any of the foregoing apply;

16.1.3 the Supplier commences negotiations with all or any class of its creditors with a view to rescheduling any of its debts, or makes a proposal for or enters into any compromise or arrangement with its creditors;

16.1.4 a petition is filed, a notice is given, a resolution is passed, or an order is made, for or in connection with the winding up of the Supplier (being a company) other than for the sole purpose of a scheme for a solvent amalgamation of the Supplier with one or more other companies or the solvent reconstruction of the Supplier;



- 16.1.5 the Supplier (being an individual) is the subject of a bankruptcy petition order;
- 16.1.6 a creditor or encumbrancer of the Supplier attaches or takes possession of, or a distress, execution, sequestration or other such process is levied or enforced on or sued against, the whole or any part of its assets and such attachment or process is not discharged within fourteen (14) days;
- 16.1.7 an application is made to court, or an order is made, for the appointment of an administrator or if a notice of intention to appoint an administrator is given or if an administrator is appointed over the Supplier (being a company);
- 16.1.8 a floating charge holder over the assets of the Supplier (being a company) has become entitled to appoint or has appointed an administrative receiver;
- 16.1.9 a person becomes entitled to appoint a receiver over the assets of the Supplier or a receiver is appointed over the assets of the Supplier;
- 16.1.10 any event occurs, or proceeding is taken, with respect to the Supplier in any jurisdiction to which it is subject that has an effect equivalent or similar to any of the events mentioned in clause 16.1.2 to clause 16.1.9 (inclusive);
- 16.1.11 the Supplier suspends or threatens to suspend, or ceases or threatens to cease to carry on, all or a substantial part of its business;
- 16.1.12 the Supplier is the subject of a claim for breach of the Human Rights Act 1998;
- 16.1.13 the Supplier is the subject of formal investigation, or the subject of a claim arising, in connection with its statutory obligations relating to employment rights, employment relations, working rights or equality;
- 16.1.14 the Supplier is the subject of formal investigation for or is the subject of prosecution for any offence under the Modern Slavery Act 2015; or
- 16.1.15 the Supplier (being an individual) dies or, by reason of illness or incapacity (whether mental or physical), is incapable of managing his own affairs or becomes a patient under any mental health legislation.
- 16.2 Without limiting its other rights or remedies, the Customer may terminate the Contract:
- 16.2.1 in respect of the supply of Services, by giving the Supplier twenty eight (28) days' written notice; and
- 16.2.2 in respect of the supply of Goods, with immediate effect by giving written notice to the Supplier, in which case the Customer shall pay the Supplier fair and reasonable compensation for any work in progress on any other Goods
- at the date of termination but such compensation shall not include loss of anticipated profits or any consequential loss.
- 16.3 In any of the circumstances in these Conditions in which the Customer may terminate the Contract, where both Goods and Services are supplied, the Customer may instead terminate part of the Contract in respect of the Goods, or in respect of the Services, and the Contract shall continue in respect of the remaining supply.
- 17 **Consequences of termination**
- On termination of the Contract or any part of it for any reason:
- 17.1 the Supplier shall immediately deliver to the Customer all Deliverables, whether or not then complete, and return all Customer Materials. If the Supplier fails to do so, then the Customer may without limiting its other rights or remedies enter the Supplier's premises and take possession of them. Until they have been returned or delivered, the Supplier shall be solely responsible for their safe keeping and will not use them for any purpose not connected with this Contract;
- 17.2 the accrued rights and remedies of the parties as at termination shall not be affected, including the right to claim damages in respect of any breach of the Contract which existed at or before the date of termination; and
- 17.3 clauses which expressly or by implication have effect after termination shall continue in full force and effect.
- 17.4 On or before the Termination Date the Supplier shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Customer's employees, rate-payers or service users, are delivered up to the Customer or securely destroyed.
- 18 **Termination due to Corruption**
- 18.1 The Customer shall be entitled to cancel the Contract with immediate effect and to recover from the Supplier the amount of any loss resulting from such cancellation of the Contract if the Supplier shall have offered, or given, or agreed to give, any person, any gift or consideration of any kind as an inducement or reward for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or the execution of this Contract or any other contract with the Customer or for showing or forbearing to show favour or disfavour to any person in relation to this Contract or any other contract or if the like acts shall have been done by any person employed by it or acting on its behalf (whether with or without the knowledge of the Supplier) or if in relation to any contract with the Customer, the Supplier or any person employed by it acting on its behalf shall have committed any offence under the Bribery Act 2010 or any amendment of them.



19 Social Value

- 19.1 The Supplier acknowledges that, under the Well-being of Future Generations (Wales) Act 2015, the Customer is required to consider how the Goods and/or Services improves the economic, social and environmental well-being of the area. In fulfilling its obligations, the Customer has adopted the National TOMs (Theme, Outcome, Measures) Wales method of monitoring, reporting and complying with its obligations under the Well-being of Future Generations (Wales) Act 2015.
- 19.2 The Customer has identified in the Specification, or during the tender process, the minimum reporting requirements which are common to National TOMs Wales projects together with any additional measurements the Customer requires the Supplier to comply with. During the tender process for the Contract, or shortly after, the Supplier has completed, or will be required to complete, the TOMs social value calculator (“the SV calculator”). The Supplier guarantees that it will achieve the levels proposed in the SV calculator for each of the measurements within the timescales set out in the SV calculator.
- 19.3 The Supplier shall ensure that no current employee of the Supplier or any current employee of any of the subcontractors (of any tier) becomes unemployed as a result of implementing the SV calculator.
- 19.4 The Supplier shall provide reports to the Customer quarterly from the Order Date in the form specified by the Customer setting out progress and achievements against the SV calculator. The Supplier shall also provide such additional information as the Customer may reasonably require to establish to what extent the SV calculator is being achieved.
- 19.5 Notwithstanding any other provision of this Contract and in addition to any other right or remedy of the Customer, provision of the reports and information required under clause 19.4 no later than one (1) week after the due date for payment shall be a condition precedent to the Supplier’s entitlement to payment of the full amount of any sum due under this Contract.
- 19.6 In the event the Supplier is not able to deliver the social value obligation as provided in the SV calculator, or otherwise fails to achieve any of the measures set out in the SV calculator during the Contract, the Customer may:
- 19.6.1 instruct the Supplier to rebalance the measures in the SV calculator to ensure the overall percentage social value is maintained, such as allowing a decrease in one measure with a commensurate increase in another measure; and/or
- 19.6.2 recover from the Supplier the notional value of any failed measures as provided by the SV calculator or, if such a calculation is not expressly provided, as the Customer calculates to be fair and reasonable.

20 General

20.1 Force majeure

Neither party shall be liable to the other as a result of any delay or failure to perform its obligations under the Contract if and to the extent such delay or failure is caused by an event or circumstance which is beyond the reasonable control of that party which by its nature could not have been foreseen by such a party or if it could have been foreseen was unavoidable. If such event or circumstances prevent the Supplier from supplying the Goods and/or Services for more than six (6) months, the Customer shall have the right, without limiting its other rights or remedies, to terminate this Contract with immediate effect by giving written notice to the Supplier.

20.2 Assignment and subcontracting

20.2.1 The Supplier shall not assign, transfer, charge, subcontract or deal in any other manner with all or any of its rights or obligations under the Contract without the prior written consent of the Customer.

20.2.2 The Customer may at any time assign, transfer, charge, subcontract, or deal in any other manner with all or any of its rights under the Contract and may subcontract or delegate in any manner any or all of its obligations under the Contract to any third party or agent.

20.2.3 In the event that the Supplier enters into any subcontract in connection with this Contract it shall:

- a) remain responsible to the Customer for the performance of its obligations under the Contract notwithstanding the appointment of any subcontractor and be responsible for the acts omissions and neglects of its subcontractors;
- b) impose obligations on its subcontractors in the same terms as those imposed on it pursuant to this Contract and shall procure that the subcontractor complies with such terms; and
- c) provide a copy, at no charge to the Customer, of any such subcontract on receipt of a request for such by the Customer's Authorised Representative.

20.2.4 The Supplier shall ensure that its subcontractors have accepted obligations equivalent to those set out in clauses 5.3.4 and 5.4.1 to 5.4.5 of these terms and conditions.

20.3 Notices

20.3.1 Any notice or other communication required to be given to a party under or in connection with this Contract shall be in writing and shall be delivered to the other party personally or sent by prepaid first-class post, recorded delivery or by commercial courier, at its registered office (if a company) or



(in any other case) its principal place of business, or sent by fax to the other party's main fax number.

20.3.2 Any notice or communication shall be deemed to have been duly received if delivered personally, when left at the address referred to above or, if sent by prepaid first-class post or recorded delivery, at 9.00 am on the second Working Day after posting, or if delivered by commercial courier, on the date and at the time that the courier's delivery receipt is signed, or if sent by fax, on the next Working Day after transmission.

20.3.3 This clause 20.3 shall not apply to the service of any proceedings or other documents in any legal action. For the purposes of this clause, "writing" shall not include e-mails and for the avoidance of doubt notice given under this Contract shall not be validly served if sent by e-mail.

20.4 **No Waiver**

No failure to exercise or delay in exercising any right, power or remedy under or in connection with the Contract shall operate as a waiver thereof, and no single or partial exercise of any right, power or remedy shall preclude any further or other exercise thereof, or the exercise of any other right or remedy.

20.5 **Severance**

20.5.1 If any provision of this Contract (or part of a provision) is found by any court or administrative body of competent jurisdiction to be invalid, unenforceable or illegal, the other provisions shall remain in force.

20.5.2 If any invalid, unenforceable or illegal provision would be valid, enforceable or legal if some part of it were deleted, the provision shall apply with the minimum modification necessary to make it legal, valid and enforceable.

20.6 **No partnership**

Nothing in the Contract is intended to, or shall be deemed to, constitute a partnership or joint venture of any kind between any of the parties, nor constitute any party the agent of another party for any purpose. No party shall have authority to act as agent for, or to bind, the other party in any way.

20.7 **Third Parties**

A person who is not a party to this Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Contract. This clause does not affect any right or remedy of any person which exists or is available other than pursuant to this Act.

20.8 **Variation**

Any variation, including any additional terms and conditions, to the Contract shall only be binding when agreed in writing and signed by the Customer.

20.9 **Governing law and jurisdiction**

The Contract, 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, English and Welsh law (as applicable in Wales), and the parties irrevocably submit to the exclusive jurisdiction of the courts of England and Wales.

20.10 **Entire Agreement:**

20.10.1 This Contract constitutes the whole agreement and understanding of the parties and supersedes any previous arrangement, understanding or agreement between them relating to the subject matter of these Conditions or any Order. Each party acknowledges that, in entering into these Conditions and/or any Order, it has not relied on any statement, representation, assurance or warranty (whether made negligently or innocently) other than those expressly set out or referred to in these Conditions. Nothing in this condition shall limit or exclude any liability for fraud.

20.10.2 These Conditions shall prevail over any inconsistent terms of conditions contained, or referred to, in the Supplier's quotation, confirmation of Order, Specification, or any other document supplied by the Supplier, or implied by law, trade custom, practice or course of dealing and by supplying the Goods and/or Services the Supplier confirms its acceptance of these Conditions.