

## Form of Agreement and Conditions of Contract (Goods and Services)

This Agreement (“the Contract”) is made the \_\_\_\_\_ day of \_\_\_\_\_ 201? between NORTH NORFOLK DISTRICT COUNCIL, Holt Road, Cromer, NR27 9EN (hereinafter called “the Council”) of the one part and \_\_\_\_\_ of (hereinafter called “the Contractor”) of the other part

### WHEREAS:-

- a. The Council has invited Tenders for Contractors to supply ..... (herein after called “the Goods and Services”) more particularly defined in the Specification contained in the Invitation to Tender.
- b. By a Tender dated \_\_\_\_\_ 2016 the Contractor has offered to provide the Goods and Services and the Council has accepted the Tender and wishes to appoint the Contractor to provide the Goods and Services on the terms and conditions contained herein.
- c. The following documents which have been signed on behalf of the parties hereto form part of this agreement:-
  - i Invitation to Tender including the specification and schedule of equipment
  - ii Tender Form
  - iii Correspondence between the Council and the Contractor
  - iv The letter of acceptancetogether called “the Contract Documents”

NOW THIS DEED WITNESSETH as follows:-

### **1. Contractors obligation**

- 1.1 The Contractor will provide the Goods and Services in accordance with the Contract Documents and shall exercise reasonable skill and care in the performance of the Services.
- 1.2 The quantity quality and description of the Goods shall be as set out in the Specification or any written variation included in the Contract Documents.
- 1.3 The Goods shall conform in all respects with the requirements of any statutes, orders, regulations or bye-laws from time to time in force.
- 1.4 The Goods shall be fit and sufficient for all the purposes for which such Goods are ordinarily used and for any particular purpose made known to the Contractor

by the Council and the Council relies on the professional expertise of the Contractor in the supply of the Goods and the execution of the contract.

- 1.5 The Goods shall mean any part or all parts of the items specified in the Specification and the term The Goods shall apply as applicable.
- 1.6 The Goods shall be to the reasonable satisfaction of the Council and shall conform in all respects with any sample approved by the Council and with any particulars specified in the Contract Documents and in any variations thereto.
- 1.7 The Contractor will ensure where the performance of the Contract or any part thereof is carried out by a third party that such third party complies with such provisions of this Contract as shall be reasonable for them to comply with.
- 1.8 For the avoidance of doubt and without limit to the generality of the forgoing all third parties engaged by the Contractor shall comply in full with clauses 1.1, 26, 27, 29, 30 and 31 as though they were the Contractor.
- 1.9 Nothing in this clause shall be deemed to have waived the obligations of clause 25.

## **2. Indemnity/Insurance**

- 2.1 The Contractor will indemnify and keep indemnified the Council from and against any and all loss damage or liability (whether criminal or civil) suffered and legal fees and costs incurred by the Council arising out of or in the course of or caused by the provision of the Services except to the extent that the same are due to any act or neglect of the Council or any person for whom the Council is responsible.
- 2.2 Without prejudice to his liability to indemnify the Council the Contractor shall take out and maintain insurance which shall comply with the Employer's Liability (Compulsory Insurance) Act 1969 and shall take out and maintain Employers and Public liability insurance in respect of injury or damage to any property real or personal which shall be for an amount not less than £1,000,000 for any one occurrence or series of occurrences arising out of one event.
- 2.3 The Consultant shall maintain Professional Indemnity insurance covering (without limitation) all its liabilities hereunder whether for breach of contract, negligence or otherwise in respect of defects or insufficiency in design upon customary and usual terms and conditions prevailing for the time being in the insurance market, and with reputable insurers lawfully carrying on such insurance business in the United Kingdom in an amount of not less than £500,000 for any one occurrence or series occurrences arising out of any one event.
- 2.4 The Contractor shall produce such evidence as the Council may reasonably require that the insurances referred to in clause 2.2 and 2.3 above have been taken out and are in force at all material times.

### **3. Delivery**

- 3.1 The Goods shall be delivered as specified in the Contract Documents. Any access to the Council's premises and any labour and equipment that may be provided by the Council in connection with delivery shall be provided without acceptance by the Council of any liability whatsoever and the Contractor shall indemnify the Council in respect of any actions, suits, claims, demands, losses, charges, costs and expenses which the Council may suffer or incur as a result of or in connection with any damage or injury (whether fatal or otherwise) occurring in the course of delivery to the extent that any such damage or injury is attributable to any act or omission of the Contractor or any of the Contractor's sub-Suppliers or suppliers.
- 3.2 Except where otherwise provided in the Contract Documents, delivery shall include the unloading of the Goods by the Contractor's employees, suppliers or carriers at such place as the Council or duly authorised person shall reasonably direct.
- 3.3 The time of delivery shall be of the essence and failure to deliver within the time tendered or specified shall enable the Council (at the Council's option) to release the Council from any obligation to accept and pay for the Goods and/or cancel all or part of the Contract therefore, in either case without prejudice to other rights and remedies.
- 3.4 Without prejudice to the Council's rights under clause 3.3 above for each week or part thereof that the Goods or any part thereof are not delivered as set out in the Contract Documents then the Council shall be entitled to a discount on the price stated in the Tender response form in the sum of 0.5% per week for each part of the Goods which are not delivered.

### **4. Property and Risk**

Property and risk in the Goods shall without prejudice to any other rights or remedies of the Council pass to the Council at the time of acceptance of Delivery.

### **5. Inspection, Rejection and Guarantee**

- 5.1 The Council may by written notice to the Contractor reject any of the Goods which fail to meet the requirements specified in the Contract Documents. Such notice shall be given within a reasonable time after delivery to the Council of the Goods concerned. If the Council shall reject any of the Goods pursuant to this Condition the Council shall be entitled (without prejudice to other rights and remedies) either:
- 5.1.1 to have the Goods concerned as quickly as possible either repaired by the Contractor or (as the Council shall elect) replaced by the Contractor with Goods which conform in all respects with the requirements specified herein;  
or

5.1.2 to obtain a refund from the Contractor in respect of the Goods concerned.

5.2 The guarantee period applicable to the Goods shall be as specified by the Contractor in the Tender Response Form. If the Council shall within such guarantee period or within 30 days thereafter give notice in writing to the Contractor of any defect in any of the Goods as may have arisen during such guarantee period under proper and normal use the Contractor shall (without prejudice to any other rights and remedies which the Council may have) as quickly as possible remedy such defects (whether by repair or replacement as the Council shall elect) without cost to the Council.

5.3 Any Goods rejected or returned by the Council as described in Clauses 5.1 or 5.2 shall be returned to the Contractor at the Contractor's risk and expense.

## **6. Payment**

The Council will pay to the Contractor such sums as are due in accordance with the Contract Documents.

## **7. Commencement/completion**

The operation of the agreement will commence on .....201? and will be completed on .....20?? Call-outs will be responded to within the times included in the Contractor's tender.

## **8. Liquidated damages**

If the provision of the Services is not completed in the manner or timescales offered in the Contractor's tender, or breakdowns are not responded to within the time specified above, the Contractor shall pay or allow to the Council liquidated damages at the rate of one and one-half times the agreed price for that service or repair.

## **9. Extension of Contract**

The Council may at its sole discretion, by written notice during a period between 1 and 9 months prior to the expiry date, offer to the Contractor an extension, or a series of extensions, of up to a total of ..... years. The Contractor will respond to any such offer in writing, either accepting or declining, within 28 days of receipt of the offer. If the Contractor fails to respond within that time period this will be deemed to be a rejection of the offer.

## **10. Variation**

The Parties may, without invalidating this Contract and subject to compliance with the Council's Contract Standing Orders, agree in writing order changes in the Goods and Services or the order or period in which they are to be carried out.

## **11. Failure to Provide the Services**

- 11.1 If the Contractor shall fail to provide any part of the Services at any time the same ought to have been provided under the terms of the Contract then, without prejudice to any other right to remedy which the Council may possess in respect of such failure, the Council may: -
- 11.1.1 without determining this Contract in whole in or part, itself provide or procure the provision of such part of the Services until such time as the Contractor shall have proved to the reasonable satisfaction of the Council that such part of the Services will once more be provided by the Contractor to the Contract Standard or, at the Council's option, until such later time as the Council may specify; and
  - 11.1.2 without determining the whole of this Contract, determine this Contract in respect of such part of the Services only and thereafter itself provide or procure the provision of such part of the Services.
- 11.2 The remedies of the Council under this Clause may be exercised successively in respect of any given default by the Contractor. All costs incurred by the Council in the exercise of the remedies under this Clause may be deducted from any monies due or to become due to the Contractor under the Contract or shall be recoverable as a debt.

## **12. Termination**

- 12.1 The Council may by notice in writing forthwith determine all or part of the Contract:
- 12.1.1 If the Contractor without reasonable cause makes default by failing to proceed diligently with the provision of the Services the Council may by notice in writing to the Contractor determine the employment of the Contractor under this Contract;
  - 12.1.2 If the Contractor without reasonable cause makes default by failing to deliver the Goods in accordance with this Contract the Council may by notice in writing to the Contractor determine the employment of the Contractor under this contract.
  - 12.1.3 If the Council, for any reason, decides that it is necessary to replace all or part of the equipment prior to the expiry of this agreement it may by notice in writing to the Contractor determine all or part of the employment of the Contractor under this Contract;

- 12.1.4 If the Council shall reasonably decide that the Contractor is suffering from financial difficulties which affect or threaten to affect the performance by the Contractor of his obligations hereunder.
- 12.1.5 If the Contractor makes a composition or arrangement with his creditors or becomes bankrupt or being a company makes a proposal for a voluntary arrangement for a composition of debts or scheme of arrangement or has a provisional liquidator appointed or has a winding up order made or passes a resolution for voluntary winding up (except for the purposes of amalgamation or reconstruction) or has an administrator or an administrative receiver appointed.
- 12.1.6 If the Contract has been subject to a substantial modification which would have required a new procurement procedure in accordance with regulation 72 of the Public Contracts Regulations 2015 (“the Regulations”).
- 12.1.7 If the Contractor has, at the time of contract award, been in one of the situations referred to in regulation 57(1) of the Regulations, including as a result of the application of regulation 57(2) of the Regulations, and should therefore have been excluded from the procurement procedure; or
- 12.1.8 If the Contract should not have been awarded to the Contractor in view of a serious infringement of the obligations under the Treaties and the Public Contracts Directive that has been declared by the Court of Justice of the European Union in a procedure under Article 258 of TFEU.
- 12.2 Upon determination of the employment of the Contractor under clause 12.1 above the Council may recover from the Contractor the additional cost to him of completing the Services and of acquiring the Goods and any expenses properly incurred by the Council as a result of and any direct loss and/or damage caused to the Council by the determination.

### **13. Representations made by the Contractor**

All representations, statements or warranties made or given by the Contractor, its servants and agents (whether orally in writing or in any of the Contractor's brochures, catalogues and advertisements) regarding the quality and fitness for purpose of the Goods or any of the Goods shall be deemed to be express conditions of this Contract

### **14. Specification**

- 14.1 The Contractor shall be deemed to have satisfied himself as to the accuracy, nature and extent of the Services required by the Specification before the execution of the Contract.

- 14.2 The Contractor shall be deemed to have satisfied himself before submitting his Tender as to the correctness and sufficiency of his Tender which shall (except insofar as it is otherwise provided in the Contract) cover all his obligations under the Contract.
- 14.3 If the Contractor finds a discrepancy, error, omission or misstatement in the documents he shall immediately refer the same in writing to the Council.
- 14.4 Any such discrepancy, error, omission or misstatement shall not vitiate the agreement nor shall it release the Contractor from the completion of the whole or any part of the Services required by the Contract. The Council shall in all such instances issue instructions as to such discrepancies, errors, omissions and misstatements.
- 14.5 The Specification describes as far as practicable the whole of the Goods and Services to be provided but the Contractor is responsible for ensuring that all these and incidental works are completed in the proper manner as generally accepted for his particular profession and in particular in accordance with the appropriate Standards and/ or Codes of Practice.

## **15. Alterations to Contract Documents**

- 15.1 Any variation to the Contract must be in accordance with Regulation 72 of the Public Contracts Regulations 2015.
- 15.2 No omission from, addition to or variation to the Tender Documentation and/ or the Contract shall be valid or of any effect unless it is agreed in writing and signed by the Council and by a duly authorised representative of the Contractor.
- 15.3 Save for an omission, addition or variation agreed pursuant to Clause 15.1 hereof any provision inconsistent with the Contract contained in any other document or in any oral agreement is agreed to be void and of no effect.

## **16. Patents and information**

- 16.1 It shall be a condition of this Contract that, except to the extent that the Goods are made up in accordance with design furnished by the Council, none of the Goods will infringe any patent, trade mark, registered design, copyright or other right in the nature of industrial property or any third party and the Contractor shall indemnify the Council against all actions, suits, claims, demands, losses, charges, costs and expenses which the Council may suffer or incur as a result of or in connection with any breach of the condition.
- 16.2 All rights (including ownership and copyright) in any specification, instruction, plans, drawings, patterns, models, design or other materials furnished to or made available to the Contractor by the Council pursuant to this Contract shall remain vested solely in the Council and the Contractor shall not (except to the extent necessary for the implementation of this Contract) without prior written consent

of the Council use or disclose any such specification, instruction, plans, drawings, patterns, models, design or any information (whether or not relevant to this Contract) which the Contractor may obtain pursuant to this Contract and in particular (but without prejudice to the generality of the foregoing) the Contractor shall not refer to the Council or the Contract in any advertisement without the Council's prior written agreement.

## **17. Health and Safety**

The Contractor represents and warrants to the Council that the Contractor has satisfied himself that all necessary test and examinations have been made or will be made prior to delivery of the Goods to ensure that the Goods are designed and constructed so as to be safe and without risk to the health or safety of persons using the same, and that it has made available to the Council adequate information about the use for which the Goods have been designed and have been tested and about any condition necessary to ensure that when put to use the Goods will be safe and without risk to health. The Contractor shall indemnify the Council against all actions, suits, claims, demands, losses, charges, costs and expenses which the Council may suffer or incur as a result of or in connection with any breach of this condition.

## **18. Whole Agreement**

Each party acknowledges that this Contract contains the whole agreement between the parties and that it has not relied upon any oral or written representation made to it by the other or its employees or agents and has made its own independent investigations into all matters relevant to it.

## **19. Supersedes prior Agreement**

This Contract supersedes any prior agreement between the parties whether written or oral.

## **20. Whistleblowing Policy**

The Contractor acknowledges that they have received a copy of the Council's Whistleblowing Policy and acknowledges their responsibilities as a supplier of Goods and Services to the Council under this policy.

## **21. Interpretation**

21.1 In the Contract, unless the contrary appears:



- 21.1.1 A reference to an Act of Parliament or any Order, Rule, Regulation, Statutory Instrument, Directive or the like (including those of the European Community) shall include a reference to any amendment or re-enactment of the same made prior to and during the Contract Period and will automatically include any such Act, Order, Rule Regulation, Statutory Instrument, Directive or the like enacted during the Contract Period which impinges upon the Goods and Services and/ or the Contract Standard.
- 21.1.2 Words importing the masculine include the feminine, words in the singular include the plural, and words in the plural include the singular.

## **22. Notices**

- 22.1 No Notice to be served upon the Contractor shall be valid and effective unless it is delivered by hand, facsimile transmission or sent by recorded, registered or special delivery post to the Contractor's principal place of business which unless notified to the Council in writing otherwise shall be assumed to be the address the Contractor detailed in the Contract.
- 22.2 No Notice to be served upon the Council shall be valid or effective unless it is delivered by hand, facsimile transmission or sent by Recorded, Registered or Special Delivery Post to the Legal Services Manager.
- 22.3 Any Notice to be served shall be deemed to be given on the date that it is delivered by hand or sent by facsimile transmission or is sent by Recorded, Registered or Special Delivery Post on the date when it would be delivered in the ordinary course of Post.

## **23. Recovery of sums due**

Wherever under this Contract any sum of money shall be properly recoverable from or payable by the Contractor, the same may be deducted from any sum then due, or which at any time thereafter may become due to the Contractor under this Contract or under any other Contract with the Council.

## **24. Waiver**

The failure by either party to enforce at any time or for any period any one or more of the terms or conditions of this agreement shall not be a waiver of them or of the right at any time subsequently to enforce all terms and conditions of this Contract.

## **25. No assignment or sub-contracting**

- 25.1 The Contractor shall not assign or sub-contract this Contract or any part thereof without the consent in writing of the Council.

- 25.2 The Contractor may not substitute any goods or materials specified within the Contract Documents for any others without the consent in writing of the Council.
- 25.3 If the Contractor has without the previous consent in writing of the Council sub-let any part of the Services the Council may determine this contract notwithstanding that the Contractor may have subsequently ceased to employ the sub-contractor.
- 25.4 It shall be a condition of any consent to sub-let any part of the contract that:
- 25.4.1 the employment of the sub-contractor shall cease immediately upon the determination (for whatever reason) of the Contractor's employment under this contract;
  - 25.4.2 in the event that the Contractor, in accordance with the terms of this Agreement, enters into a supply contract or a sub-contract in connection with this Agreement, the Contractor shall ensure that a term is included in the supply contract or sub-contract which requires the Contractor to pay all sums due thereunder to the sub-contractor within a specified period, not to exceed thirty (30) days, from the date of receipt of a valid invoice as defined by the terms of the supply contract or sub-contract (as appropriate); and
  - 25.4.3 in the case of a local supply contract or sub-contract entered into in connection with this Agreement – where the local supplier or sub-contractor is deemed to be a business with headquarters within the Council's district boundary, the Contractor will use their best endeavours to ensure that payment to such a supplier/contractor shall be within a period not to exceed ten (10) days, from the date of receipt of a valid invoice as defined by the terms of the supply contract or sub-contract (as appropriate).

## **26. Prevention of Corruption**

- 26.1 The Council shall be entitled to terminate this Contract with immediate effect and to recover from the Contractor the amount of any loss resulting from such termination if:
- 26.1.1 the Contractor shall, in the opinion of the Council, have offered or given or agreed to give to 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 this Contract or any other contract, whether with the Council or anyone else;
  - 26.1.2 the like acts have been done by any person employed by the Contractor or acting on his behalf ( whether with or without his knowledge);
  - 26.1.3 in relation to any contract whether with the Council or anyone else, the Contractor or any person employed by him or acting on his behalf and whether with or without his knowledge, shall have committed any offence under the

Prevention of Corruption Acts 1889 to 1916 (or any amendments of them) or, have given any fee or reward or solicited or accepted any form of money or taken any reward collection or charge for providing the Goods and Services, the receipt of which is an offence under Section 117 (2) of the Local Government Act 1972, other than bona fide charges previously approved in writing by the Council; or

26.1.4 the Contractor when quoting fixed or adjusted the amount of the Tender under or in accordance with any agreement or arrangement with any other person or before the hours specified for the return of Tenders:

26.1.4.1 communicated to a person other than the Council the amount or the approximate amount of its Tender (except where the disclosure in confidence of the approximate amount of its Tender was essential to obtain insurance premium Tenders required for the preparation of its Tender);

26.1.4.2 entered into an agreement with any other person whereby that other person would refrain from quoting or as to the amount of any Tender to be submitted; or

26.1.4.3 offered or paid or gave or agreed to give any sum of money or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any other Tender or proposed Tender any act or thing of the sort described above.

## **27. Observance of Statutory Requirements**

The Contractor shall comply with all statutes, orders, regulations or bye-laws applicable to the performance of the Contract and indemnify the Council against any losses claims liabilities costs expenses proceedings or otherwise as a result of the Contractors non compliance with the same.

## **28. The Project Officer**

The Project Officer, or his authorised deputy, shall be the officer, employee, agent or otherwise appointed by the Council who shall, in accordance with the Contract but not further or otherwise have power and authority to issue reasonable instructions and directions on any matter in connection with the proper performance of the Services and supply of Goods but subject to the terms of the Contract and the Contractor shall carry out and be bound by the same. The Project Officer shall not exercise any functions; rights or powers beyond those conferred by the Contract.

## **29. Confidentiality**

Save for information already in the public domain or the Contractor's knowledge the Contractor and the Contractor's staff shall treat as confidential and shall not disclose to any person other than a person authorised by the Council, any written and confidential information acquired by the Contractor or the Contractor's staffing or in connection with the provision of the Services concerning the Council's Premises, the Council, its staff or its procedures.

### **30. Freedom of Information**

- 30.1 The Contractor acknowledges that the Council has legal responsibilities to make information available under the Freedom of Information Act 2000 ("the Act").
- 30.2 The Contractor shall give reasonable assistance to the Council to comply with the Act.
- 30.3 In particular, the Contractor shall supply all such information and records to the Council (together with reasonable assistance to locate the same) which are needed by the Council to comply with its obligations under the Act.
- 30.4 Notwithstanding any of the provision of this Contract the Council shall have the discretion to disclose any information which is the subject of Contract to any person who makes a request under the Act and which, in the opinion of the Council, it has to disclose to discharge its responsibilities under the Act.
- 30.5 When exercising its right under sub clause 4 above, the Council shall consult the Contractor (and may take account of any reasonable suggestions made by it).
- 30.6 The Contractor shall not raise any additional charge to the Council in relation to complying with this clause.

### **31. Data Protection**

- 31.1 For the Purposes of this clause:
  - 31.1.1 "Personal Data", "Special Categories of Data", "Process / Processing", "Controller", "Processor", "Data Subject" and "Supervisory Authority" shall have the meanings described in Directive 95/46/EC of the European Parliament and Council of 24th October 1995 on the protection of individuals with regard the processing of personal data and on the free movement of such data (hereinafter the "Directive"); and
  - 31.1.2 "The Act" in this clause shall be the Data Protection Act 1998 incorporating all amendments and revisions thereto.
- 31.2 The Council agrees and warrants:

- 31.2.1 That the processing including the transfer of personal data by the Council has been and until transfer will continue to be carried out in accordance with the Act; and
  - 31.2.2 To respond in a reasonable time and to the extent reasonably possible to enquiries from the supervisory authority on the processing of personal data by the Contractor and to any enquiries from the Data Subject concerning the processing of personal data by the Contractor.
- 31.3 The Contractor agrees and warrants:
- 31.3.1 That he has no reason to believe that the legislation applicable to him prevents him from for filling his obligations under the Contract and in the event of a change in that legislation which is likely to have a substantial adverse effect on the guarantees provided in this clause he will notify the change to the Council and where relevant to the Supervisory Authority of Great Britain in which case the Council is entitled to suspend the transfer of personal data and if necessary the Contract;
  - 31.3.2 To process personal data only in so far as is required to for fill the requirements of the Contract and only in accordance with the Data Protection Principals of Schedule 1 of the Act;
  - 31.3.3 To adequately dispose of all personal data at the end of the Contract or at the end of any part of the Contract, such disposal to take account of the Data Protection Principals of Schedule 1 of the Act.
  - 31.3.4 To indemnify the Council against all actions costs claims expenses proceedings and demands which may be made or brought against the Council for breach of statutory duty under the Act which arises by the unauthorised use disclosure or transfer of personal data by the Contractor his servants or agents;
  - 31.3.5 To deal promptly and properly with all reasonable inquiries from the Council or the Data Subject relating to the processing of Personal Data subject to the transfer and to cooperate with the competent Supervisory Authority in the course of all its enquiries and abide by the advice of the Supervisory Authority with regard to the processing of data transferred; and
  - 31.3.6 At the request of the Council to submit its data processing facilities for audit which shall be carried out by the Council or an inspection body composed of independent members in possession of the required professional skills and competences and where required in agreement with the Supervisory Authority.
- 31.4 The Parties agree that the provision of this clause shall remain in force notwithstanding the termination or conclusion of the remainder of the Contract for so long as the Contractor holds personal information which has been transferred to it by the Council.

### **32. Contracts (Right of Third Parties) Act 1999**

For the avoidance of doubt, nothing in this Contract confers or is intended to confer on any third party and benefit or the right to enforce any term of this Contract pursuant to the Contracts (Rights of Third Parties) Act 1999.

### **33. Late Payment**

The Late Payments of Commercial Debts (Interest) Act 1998 and the Regulations thereunder shall apply to the Contract unless excluded under the provision therefore or by alternative provisions in the Tender Documents.

### **34. Force Majeure**

- 34.1 Neither party shall be held to be in breach of Contract in respect of any failure to fulfil his obligations pursuant to the Contract resulting from force majeure. Each party will as soon as reasonably practicable notify the other in writing of the occurrence of such force majeure as they become known.
- 34.2 Force Majeure is acknowledged by the parties to be any circumstances beyond the reasonable control of either party including without prejudice to the generality of the foregoing fire, flood, Act of God, riot civil disturbance, industrial disputes where neither party is a direct participant, war or sabotage the coming in force of any statutory instrument regulation or by-law of the Government or any competent authority rendering the continued performance of the Contract illegal or impossible.

### **35. Arbitration**

- 35.1 All disputes between the parties arising out of or connected with this Contract or the performance of the Services or the supply of Goods by the Contractor may if the parties agree be referred to an Arbitrator to be agreed upon by the parties or in default of such agreement to be nominated by the President of the Institute of Arbitrators or a person appointed by him.
- 35.2 The Arbitrator shall be entitled to make such decision or award as he thinks just and equitable having regard to the circumstances then existing, the cost of such arbitration to follow the event or in the event of neither party succeeding to be apportioned between the parties by the Arbitrator in such proportions as he in his absolute discretion thinks fit.
- 35.3 Any award or decision of such Arbitrator shall be final and binding on the parties hereto.

**36. Jurisdiction**

This Contract shall be governed by and construed in accordance with the laws of England and the Contractor irrevocably submits to the jurisdiction of the English Courts

In witness whereof the parties have executed this Deed in the presence of the attesting witnesses the day and year first before written

EXECUTED as a DEED by )  
 )  
acting by: - )

.....  
Director/Company Secretary

THE COMMON SEAL of )  
NORTH NORFOLK )  
DISTRICT COUNCIL )  
was hereunto affixed in the )  
presence of: - )

.....  
Authorised Signatory

.....  
Authorised Signatory