

**THIS AGREEMENT** is dated

202[ ]

**BETWEEN:**

1. **LONDON BOROUGH OF ENFIELD** of Civic Centre, Silver Street, Enfield, EN1 3ES (the “**Authority**”); and
2. [ ] (Company Number [ ]) of [ ] (the “**Authorised User**”).

**BACKGROUND:**

- (A) This Agreement is made pursuant to a framework agreement dated [ ] between (1) The Authority and (2) the parties named therein as the [ **Provider/Consultant** ] (the “**Framework Agreement**”).
- (B) The Authority wishes to grant the Authorised User the right to enter into Call Off Contacts with [ **Provider/Consultant** ] under the Framework Agreement, subject to and in accordance with the terms of this Agreement.

**IT IS AGREED** as follows:

**1 Definitions and Interpretation**

- 1.1 Where the Framework Agreement assigns a meaning to any word or expression which is used in this Agreement, the same meaning shall, unless the context otherwise requires and unless defined hereunder, be given to it in this Agreement.
- 1.2 In this Agreement, unless the contrary intention appears, and where appropriate:-
  - (a) obligations which are entered into by more than one person shall be deemed to be joint and several;
  - (b) references to one gender include all other genders and vice versa;
  - (c) references to the singular include the plural and vice versa;
  - (d) references to persons include individuals, companies, corporations, firms, partnerships, government bodies and agencies;
  - (e) titles and headings are for reference only and shall not affect the interpretation of this Agreement;
  - (f) references to a statute mean that statute as amended, consolidated or re-enacted at the relevant time and any statutory instrument, regulation or order made under it which is then in force;
  - (g) references to an indemnity mean an indemnity against all actions, claims, demands and proceedings made against The Authority and all costs, expenses, liabilities and losses incurred directly or indirectly by The Authority and “indemnify” and “indemnified” shall be construed accordingly;
  - (h) the words “including” and “include” shall be deemed to be followed by the words “without limitation”;
  - (i) if any provision in this Agreement is held to be illegal, void, invalid or unenforceable for any reason, the legality validity and enforceability of the remainder of this Agreement shall not be affected; and

- (j) an obligation to use reasonable endeavours shall not require the issue of proceedings in any Court in order to fulfil such obligation and nor shall the party be required to act against its commercial interests.

## **2 Right to Enter into Call Off Contracts**

- 2.1 In consideration of the covenants given by the Authorised User in this Agreement, The Authority grants to the Authorised User the right under the Framework Agreement to enter into Call Off Contracts with [Providers/Consultants], subject to the terms of this Agreement.
- 2.2 The Authorised User agrees that insofar as permissible by law The Authority shall have no liability whatsoever to the Authorised User in connection with or arising from this Agreement and/or any Call Off Contract entered into by the Authorised User pursuant to the Framework Agreement.

## **3 Authorised User's Obligations**

- 3.1 The Authorised User covenants with The Authority that the Authorised User shall:
  - (a) comply with all obligations in the Framework Agreement that are expressed to be obligations of an Authorised User;
  - (b) adhere to the call off procedures set out in Clause 4 of the Framework Agreement in awarding Call Off Contracts under the Framework Agreement;
  - (c) monitor and provide to The Authority on an open book basis its assessment of the [Provider/Consultant] performance in relation to any Call Off Contracts it awards under the Framework Agreement and the contribution of the [Provider/Consultant] in the achievement of the Framework Objectives by reference to the KPIs incorporated into the relevant Call Off Contracts;
  - (d) if required by The Authority, attend and participate in any meetings convened pursuant to and /or provide to The Authority such reasonable information as is set out in the Agreed Terms of the Framework Agreement (Page 14) and Clause 9.2 of the Framework Agreement; and
  - (e) not do anything or omit to do anything that might cause or contribute to a breach by The Authority of its obligations under the Framework Agreement.
- 3.2 The Authorised User shall indemnify and defend and hold harmless The Authority from and against all costs (including legal costs), charges, expenses, damages and proceedings incurred or suffered by The Authority or for which The Authority may become liable, arising from, under or in connection with this Agreement.

## **4 Provision of Information**

- 4.1 The Authorised User shall within five (5) days of entering any Call Off Contract pursuant to the Framework Agreement advise The Authority of the sums payable to the [Provider/Consultant] pursuant to such Call Off Contract so that The Authority can maintain a record of the value of Call Off Contracts awarded pursuant to the Framework Agreement.

- 4.2 The Authorised User shall, within five (5) days of any request from The Authority, provide The Authority with copies of all invoices the Authorised User has received from the [Provider/Consultant] pursuant to the terms of Call Off Contracts, together with such other information as The Authority may reasonably require in connection with such Call Off Contracts.

## **5 Termination**

- 5.1 Without prejudice to The Authority's other rights against the Authorised User under this Agreement or under common law, The Authority shall be entitled to terminate the Authorised User's entitlement to award Call Off Contracts pursuant to this Agreement at any time upon fourteen (14) days' written notice to the Authorised User.
- 5.2 Following termination pursuant to Clause 5.1 the Authorised User shall:
- (a) not be entitled to commence any selection process pursuant to the Framework Agreement;
  - (b) be entitled to enter into a Call Off Contract awarded pursuant to a selection process notified to the [Provider/Consultant] pursuant to the Framework Agreement prior to receipt of the notice of termination.

## **6 Assignment**

- 6.1 The Authorised User shall not be entitled to assign the benefit of this Agreement without the prior written consent of The Authority which may be withheld at its discretion.

## **7 Governing law and jurisdiction**

- 7.1 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.
- 7.2 The parties will endeavour to resolve any difference or dispute by direct negotiation in good faith and each party will give serious consideration to a request by the other to refer a difference or dispute to mediation.
- 7.3 Each party irrevocably agrees that the courts of England and Wales shall have non-exclusive jurisdiction to settle any dispute or claim arising out of or in connection with this Agreement or its subject matter or formation (including non-contractual disputes or claims).

## **8. Confidentiality**

- 8.1 The Contracting Body shall keep secret and not disclose and shall procure that their employees and any subcontractors keep secret and do not disclose any information of a confidential nature obtained by them by reason of this Agreement. This obligation shall not apply to information:

- 8.1.1 which is in the public domain or is trivial or cannot reasonably be considered to be confidential; or
- 8.1.2 which the Contracting Body is required to disclose as a matter of law or in discharge of its obligations of public accountability and freedom of information.

**This Agreement** has been entered into on the date stated at the beginning of it

Signed by

for and on behalf of The Authority

Signed by

for and on behalf of the Authorised User