

Part J – Termination

1 TERMINATION

- 1.1 Either party may immediately terminate this Agreement without payment of compensation or other damages caused to the terminating party solely by such termination by giving notice in writing to the other party if any one (1) or more of the following events happens:
 - 1.1.1 the other party commits a material breach of any of its obligations under this Agreement which is incapable of remedy; or
 - 1.1.2 the other party commits a material breach of any term of this Agreement which is capable of remedy and fails to remedy that breach within a period of thirty (30) days after being notified in writing to do so; or
 - 1.1.3 the other party persistently or repeatedly breaches any of the terms of this Agreement in such a manner as to reasonably justify the Council's opinion that its conduct is inconsistent with it having the intention or ability to give effect to the terms of this Agreement; or
 - 1.1.4 continued association with the Service Provider is likely to, or may, in the opinion of the Council damage the business and/or the reputation of the Council; or
 - 1.1.5 the other party proposes a voluntary arrangement within the meaning of section 1 or section 253 of the Insolvency Act 1986, or an interim order is made in relation to that party under section 252 of the Insolvency Act 1986, or any other steps are taken or negotiations commenced by that party or any of its creditors with a view to proposing any kind of composition, compromise or arrangement involving that party and any of its creditors; or
 - 1.1.6 the other party is deemed to be unable to pay its debts within the meaning of section 123 of the Insolvency Act 1986, or calls a meeting for the purpose of passing a resolution to wind it up, or such a resolution is passed, or a resolution is passed by the directors of the Service Provider to seek a winding up or administration order, or that party presents, or has presented, a petition for a winding up order, or presents, or has presented, a petition to appoint an administrator, or has an administrative receiver, or receiver appointed over all or any part of its business, undertaking, property or assets; or
 - 1.1.7 the other party gives written notice to the non-terminating party that either of the events listed above at clause 29.1.5 or clause 29.1.6 has happened or is about to happen.
- 1.2 The Council may immediately terminate this Agreement by giving written notice to the Service Provider:
 - 1.2.1 if the Service Provider fails to meet any Key Service Level; or
 - 1.2.2 pursuant to clauses 5.7, 31.4, 36.3 or 51.3.
- 1.3 The Service Provider may terminate this Agreement by giving ten (10) Business Days written notice to the Council if any undisputed Charges remain unpaid sixty (60) days after the due date for payment.
- 1.4 If:
 - 29.4.1 there occurs one of the situations mentioned in paragraphs (a) (b) or (c) of regulation 73(1) of The Public Contracts Regulations 2015 (S.I. 2105 No.102); or

29.4.2 (without prejudice to clause 29.4.1 above) the Council reasonably determines that this Agreement was entered into in material breach of the Council's Contract Procedure Rules;

then (and in any such case) the Council may at its absolute discretion choose to (but shall not be forced to) give notice to the Service Provider to terminate the Service Provider's appointment under this Agreement (which notice will have immediate effect).

- 1.5 The termination of this Agreement or of any of the Services shall be without prejudice to the rights and remedies of either party, which may have accrued up to the date of termination.

2 CONSEQUENCES OF TERMINATION

- 2.1 Termination of this Agreement shall not prejudice any other right or remedy of either party in respect of the breach concerned (if any) or any other breach.

- 2.2 Following the service of a notice to terminate this Agreement for any reason, the Service Provider shall continue to provide and/or procure the provision of the Services to the required Service Levels and shall ensure that there is no degradation in the standards of the Services until the expiry of such notice to terminate this Agreement.

- 2.3 The parties shall ensure an orderly migration of the Services to the Council or, at the Council's request, a new service provider.

- 2.4 On expiry or termination of this Agreement (for whatever reason), the Service Provider shall, as soon as reasonably practicable:

2.4.1 repay to the Council any amount which it may have been paid in advance in respect of Services not provided or procured by the Service Provider as at expiry or termination;

2.4.2 deliver to the Council all New Materials and any other documentation, goods and supplies that it has agreed to supply under this Agreement and which exist at the date of termination, whether or not complete, and the Service Provider hereby assigns to the Council ownership of any Intellectual Property in such New Materials to the extent these have not already been assigned to the Council in accordance with clause 24. Until they have been returned or repossessed, the Service Provider shall be solely responsible for their safe-keeping;

2.4.3 return all of the Materials and Confidential Information supplied to it by or on behalf of the Council in its possession, custody or control. Until these are returned or repossessed, the Service Provider shall be solely responsible for their safe-keeping; and

2.4.4 vacate the Relevant Premises leaving them clean and tidy and removing any goods, materials or equipment belonging to it. Any goods, materials or equipment (including any of the Service Provider's equipment) that have not been removed after thirty (30) days after expiry or termination of this Agreement may be disposed of by the Council as it thinks fit.

- 2.5 The expiry or termination of this Agreement for any reason shall not affect any accrued rights or liabilities of either party, nor the coming into force, or the continuance in force, of any provision of this Agreement which is expressly or by implication intended to come into or continue in force on or after the termination of this Agreement.

- 2.6 On the expiry or termination of this Agreement (for whatever reason) the following provisions shall apply:

- 2.6.1 all outstanding Charges reasonably and properly incurred by the Service Provider shall be paid in full to the agreed payment terms;
 - 2.6.2 subject to clause 30.5 above the relationship of the parties shall cease and any rights or licences granted under or pursuant to this Agreement shall cease to have effect save as (and to the extent) expressly provided for in this clause 30; and
 - 2.6.3 any provision which expressly or by implication is intended to come into or remain in force on or after termination shall continue in full force and effect for a period of 6 years following the end of the Term including, but not limited to, clauses 7, 8, 15, 17, 18, 22, 24, 25, 26, 27, 28, 30, 34, 41, 43, 44, 47, 49, and 50.
- 2.7 The provisions of Schedule 12 (Exit Management Plan) (the "**Exit Management Plan**") shall apply upon the termination or expiry of this Agreement.