

Supplementary Committee Agenda



**Epping Forest
District Council**

Cabinet Monday, 4th February, 2013

Place: Council Chamber, Civic Offices, High Street, Epping

Time: 7.00 pm

Democratic Services: Gary Woodhall (The Office of the Chief Executive)
Tel: 01992 564470 Email:
democraticservices@eppingforestdc.gov.uk

**12. REVIEW OF NORTH WEALD AIRFIELD - APPOINTMENT OF CONSULTANTS
(Pages 3 - 52)**

(Asset Management & Economic Portfolio Holder) Consultants' Brief attached.

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Epping Forest District Council

REQUEST FOR QUOTE

for

NORTH WEALD AIRFIELD REVIEW AGAINST GPS FRAMEWORK RM353

Issued By:

Dominic Warren
The Essex Procurement Hub
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Essex
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North Weald Airfield Review

Request for Quote

SUMMARY

The Council has made provision to engage specialist consultancy support to undertake a review of the Airfield, to consider all possible uses and mixes of uses in order to ensure that the Airfield provides an economically viable long term return on the asset.

The Council is commissioning this study as part of the preparation of its Local Plan which is currently at the “Issues and Options” stage. It is envisaged that the outcomes of this commission will form a key component of the next stage of public consultation, following the publication of what the Council considers to be its “Preferred Options” for the future of the District. For this to be achieved the Council requires that interim options from the review should be available by Friday 5 April 2013 and firm conclusions by Friday 10 May 2013 for reporting to Members via a workshop in late May / early June 2013 and to cabinet on 10 June 2013. The successful bidder should satisfy themselves that they can complete the commission within these time constraints.

BACKGROUND INFORMATION & CONSULTANTS COMMISSION

1. THE AIRFIELD

North Weald Airfield (‘the Airfield’) was first established as a military facility during the First World War. It continued to be used for military purposes in the years leading up to the Second World War, when it formed part of the network of Royal Air Force Fighter Command airfields and played a prominent part in the “Battle of Britain”.

Post war, and with the advent of jet aircraft, the RAF determined that the Airfield was unsuitable for use, and withdrew it from active use in the late 1950s. It remained as a standby base until the Ministry of Defence decided that the Airfield was surplus to its requirements. Epping Forest District Council (‘the Council’) purchased the Airfield in 1980 for £660,000.

At 384 acres, the Airfield is the largest individual landholding in the Council’s property portfolio. It is located adjacent to the village of North Weald Bassett, and is situated between the M11 motorway to the west, the A414 to the north and the B181 to the south and east. Access to the Airfield is generally via the A414, although an access also exists via North Weald Bassett village which is not encouraged. (see location plan at appendix A)

The Airfield is around 3 miles from the town of Epping, which has direct links with London through the Central Line (LUL Underground). The nearest mainline railway station is in Harlow, around 5 miles to the northwest. This line provides a route to London Liverpool Street.

Stansted Airport is located just under 20 miles to the north of the Airfield, and Stapleford Aerodrome around 5 miles to the south of the Airfield. Stansted is a busy commercial airport predominantly utilised by low cost carriers and cargo handling operations. Stapleford is a small but busy airfield with predominantly general aviation in the form of flight training, air taxi etc.

2. CURRENT USES

The Airfield has two main hard runways, 02/20 (north east/south west) which is 1,920 metres in length and 13/31 (east/west) which is 827 metres in length. There is also a grass runway oriented alongside runway 02/20. The Airfield can best be described as being in mixed use, there being a mix of aviation, warehousing and industrial use. Part of the Airfield is also utilised for use as an outdoor market on Saturdays and Bank Holidays. The operator claims that the market is the largest of its type in Europe, but its scale is in decline. The Airfield is also used for various leisure activities such as football, archery and model aircraft flying and also by driving schools and clubs (e.g. skid control training, HGV training, speed trials etc).

Most of the non aviation activities are confined to the southern end of the Airfield to prevent conflicts between their operations and the main 02/20 runway. However, there are also warehousing activities on the 'live side' of the Airfield.

The Airfield has maintained much of its historical infrastructure including hangars and revetments and is home to a number of private collections of historic aircraft from the 1940s through to the present day. The Airfield is also currently home to the Herts & Essex Air Ambulance Service.

The Council also owns land which is technically outside of the operational boundaries of the Airfield, to the east of Merlin Way, the uses of which include a firing range and a gymnasium. A considerable amount of this land is currently unoccupied and unused.

The broad categories of use are identified on the plan set out as appendix B.

3. AVIATION ACTIVITIES

The Airfield is unlicensed and consequently public air transport operations are not permitted. Although recent changes in the Civil Aviation Authority (CAA) regulations would enable limited pilot training, none currently takes place (with the exception of microlight aircraft). Flying is permitted from 08.30 until 19.00 (or sunset + 30 mins) each day. Night operations are not permitted and the Airfield has no navigational aids or lighting.

The Airfield has a control tower which is manned during operational hours by Council Operational Officers who are trained to provide a ground to air information service. The operational officers also provide limited fire protection services.

The Airfield lies within the controlled airspace for Stansted Airport, with the result that aircraft visiting the Airfield or transiting through are constrained laterally and vertically. Circuits are arranged to reduce the effects of noise on the surrounding community and to prevent conflict with the nearby Stapleford Aerodrome.

Although there are two operational runways, the use of 13/31 is limited. Powered fixed wing operations consist mainly of light aircraft movements, made up of single and twin propeller powered aircraft. Some of these are however high performance, often ex military aircraft such as the Spitfire, Hurricane and Mustang. There are also a number of jet aircraft operating from the Airfield, including ex military aircraft. Aircraft are limited in weight through tenants leases and/or the Airfield Operations Manual (AOM) and are generally less than 5,700 kg (12,500 lbs) in weight.

The Airfield is also used by the Herts and Essex Air Ambulance Service operating a MD 902 Explorer helicopter. Although night operations are not permitted, the helicopter is allowed to return to its location on the Airfield after the normal hours of operation.

The aviation tenants comprise a mixture of private aircraft owners (with or without hangars), maintenance and hangar space providers and a club known as "The Squadron".

Aviation tenants on the Airfield have leases which may provide for a fixed number of aircraft movements. In this context a movement is defined as a take off and landing (paired as one movement) in contrast to the normal definition of either a take off or a landing. It is known that a number of tenants are currently operating in excess of their permitted movements and the Council is considering how best to negotiate this issue with tenants. The Council does not currently operate a system of landing and / or parking fees (although it did do so during the period of the Olympic Games).

4. NON AVIATION ACTIVITY

There is a range of non aviation activities undertaken at the Airfield. The major non aviation related activity is the use of part of the Airfield for Saturday and Bank Holiday Markets. The market is very large, with the operator claiming it to be the largest of its type in the UK/Europe.

The main other non aviation activities include warehousing, driver training (car, HGV and PSV), weekend football, archery, advertising filming shoots, Christmas parties and outdoor exhibitions / shows / entertainment events.

Most of this activity is confined to the eastern side of the main runway and does not affect aviation activities. However, there are a number of occasions throughout the year where flying activities are suspended to allow events to proceed. In a similar vein, the Market operates throughout the year, but the agreement with the operator allows for 4 occasions where the nature of aviation activity taking place requires that the market be suspended.

5. LAND OUTSIDE OF THE AIRFIELD BOUNDARY

The Council also owns significant landholdings immediately adjacent to but outside of the fenced area of the Airfield. This land lies to the east of the Airfield boundary and runs alongside Merlin Way, which is the main access road to the Airfield. Much of this land is unoccupied and partially 'derelict' whilst some, opposite the gatehouse and entrance to the Airfield, remains developed and in use as a gymnasium and a firing range, both used by local associated clubs.

This land is set out as appendix C.

6. PLANNING HISTORY AND CONTEXT

The Airfield is located wholly within the Metropolitan Green Belt (MGB) although parts of the Airfield have been designated for commercial and industrial use. The Council has policies in place covering potential uses / developments of the Airfield which are set out as appendix D.

The East of England Plan (EEP) is the Regional Spatial Strategy (RSS) for the East of England of which Epping Forest District is a part. The EEP was published in May 2008 and set housing and employment growth targets. It can be made available to the consultants upon request. Although Government has signalled its intention to abolish all RSSs it has not yet done so. It is however anticipated that this will occur before the new Local Plan referred to below is finally adopted. Nevertheless, the targets set in the EEP remain part of the evidence base in developing the new Local Plan. Further work is underway on an Essex wide basis to update the population household projections taking account of recent ONS and Census information.

The Council is currently in the process of developing a Local Plan in accordance with the legislative requirements set out in the Planning and Compulsory Purchase Act 2004 and Localism Act 2011. The Council has recently completed consultation on the "Issues and Options" for the District and the Airfield is specifically referenced through pages 135 to 138 of the "Issues and Options" consultation paper. The consultation document 'Community Choices' puts forward for consideration four potential options for the future of the Airfield, namely:

- (1) maintain existing policies and approach to the use of the Airfield, allowing existing Airfield users to

- expand their businesses and small new aviation operators to start businesses with existing policy constraints;
- (2) moderate expansion of commercial activity with the retention of current levels of aviation activity;
 - (3) pursue aviation intensification, to include licensed commercial aviation activities; and
 - (4) cease all aviation activity and pursue alternative uses for the Airfield

The Council has received a large response to the “Issues and Options” consultation. Initial analysis of the comments received has raised specific issues for consideration, such as the use of the site as a location for the expansion of the local glasshouse industry and for housing. The consultation may also bring forward additional or amended options. More detailed analysis of the comments received will be passed on to the appointed consultants and will need to be taken into account as part of this work.

There have been three previous ‘reviews’ of the Airfield, the first by Drivers Jonas in 1999, the second by Halcrow in 2011 and the third by Ernst and Young also in 2011. The Drivers Jonas commission looked at a range of potential uses, including aviation and other development, the Halcrow commission looked almost exclusively at the options for aviation intensification whilst the Ernst and Young commission reviewed the work of Halcrow in terms of how its recommendations might actually be delivered.

Copies of, or electronic links to, all reports referred to in this part of the brief can be made available to consultants on request.

The Council is aware that as its largest land holding and asset, the Airfield has an important part to play in the Council’s review of its planning policies for the next 20 years or so. In formulating its policies the Council has to consider the role of the Airfield both in terms of planning policy and ensuring that the Airfield, as an asset, provides an effective rate of return to the Council and the residents of the District.

The Council has therefore concluded that, as part of its Local Plan review process, the future uses of the Airfield and the Council owned land adjoining it should be reviewed, with the intention that any recommendations coming forward will be included for consideration as part of the consultation on the “Preferred Option” currently scheduled for Summer 2013. In broad terms it is therefore anticipated that the initial review of options for the Airfield should be completed by the end of the first week in April 2013 to feed into the development of the preferred option for the local plan with final recommendations available by the middle of May 2013 for reporting to Members at Cabinet on 10 June 2013.

7. THE COMMISSION

The Review

The Council wishes to commission a review of the potential future use(s) of North Weald Airfield and the land adjoining the Airfield in its ownership. For the purposes of the brief which follows, the term “Airfield” includes the main site plus the adjoining land described in part 5 above. Whilst the Council is prepared to consider all options brought forward, whether including aviation uses or not, it requires that the following be included in the review process:

- **Assessment of solely aviation based options**
 - identify development options
 - identify additional aviation related revenue streams to support aviation options
 - develop detailed cost and pricing assumptions to support the options
 - soft market testing to assess market appetite for potential options
 - assess planning constraints, to include issues such as air quality and noise impacts, and cost implications of remedial works and any development required to support the aviation use
 - assess feasibility of aviation options based upon likely commercial returns

- **Assessment of solely non-aviation options**
 - identify development options
 - develop detailed cost and pricing assumptions to support the options
 - soft market testing to assess market appetite for potential options
 - assess planning constraints, to include issues such as air quality and noise impacts, and cost implications of remedial works
 - assess feasibility of options based upon likely commercial returns
- **Assessment of mixed use options**
 - identify development options which include a continued aviation presence
 - develop detailed cost and pricing assumptions to support the options
 - soft market testing to assess market appetite for potential options
 - assess planning constraints, to include issues such as air quality and noise impacts, and cost implications of remedial works
 - assess feasibility of options based upon likely commercial returns

Notwithstanding the required elements set out above, it is important to note that the Council is prepared to consider a full range of development options, either including or excluding aviation, based upon what provides best value for the Council and meets the Councils objectives for the Airfield.

- **Assessment of options**

The review is expected to enable the Council to compare and contrast the relevant merits of the different options against the following criteria:

 - technical feasibility
 - financial viability (from a revenue and capital standpoint and including the assessment of funding options such as business rate support, Enterprise Zones etc)
 - market attractiveness (the likelihood of an option coming to fruition)
 - risk
 - community value
- **Linkage with the Local Plan preparation process**
 - ensure that throughout the review process that the options identified within the recent “Issues & Options” consultation are considered together with comments received on them, namely:
 - maintain existing policies and approach to the use of the Airfield, allowing existing Airfield users to expand their businesses and small new aviation operators to start businesses with existing policy constraints
 - moderate expansion of commercial activity with the retention of current levels of aviation activity
 - pursue aviation intensification, to include licensed commercial aviation activities
 - cease all aviation activity and pursue alternative uses for the Airfield
 - , any other reasonable option arising out of response to the “Issues & Options” consultation not covered by the above
- **Consultation**
 - whilst a formal public consultation will not be required as part of this review, this being undertaken once the preferred option(s) has(ve) been agreed by Council, consultants are expected to engage with aviation, non-aviation tenants, Airfield Management, the North Weald Basset Parish Council and other relevant stakeholders in bringing forward options for consideration. The Council will provide details of relevant stakeholders.

Supplementary Information

As set out in the background information, the Airfield has a significant heritage having been formally used by the armed forces in two world wars and thereafter, before its sale to this Council. Therefore, the Airfield has

historic buildings and artefacts and potential contamination. As part of evidence gathering for the renewal of the Local Plan consultants were appointed to undertake a Heritage Asset Review. It should also be noted that English Heritage are in the process of undertaking an assessment of the Control Tower to determine its future status.

Furthermore, it is likely that there are wildlife habitats and other natural interests.

The main runway is currently subject to an assessment of its condition, the results of which will be supplied to all bidders once the Council is in receipt.

Information held by the Council relating to these supplementary items will be made available upon request.

Timescales

In view of the need to retain a close linkage between the Local Plan process and the review of the Airfield, it will be necessary for preliminary options to be available by the end of the first week of April 2013, and for final recommendations to be available by 10 May 2013. It is intended that these final recommendations will be reported to Members via a workshop to be held in late May/early June 2013 and then onto Cabinet in June 2013. Consultants should be prepared to attend this workshop, to be held on a Saturday, and Cabinet on the 10th to report their findings and provide necessary guidance to Members.

Process

In view of the complexity of the review, it is envisaged that the Council will appoint a lead consultant who will then be expected to commission the required specialist consultancies to deliver the overall commission. The lead consultant will be required to accept full responsibility for the commission as a whole and all the specialist sub appointments to ensure adherence to the timescales required and the maintenance of professional standards.

The Council recognises that there will be a further stage of consultancy required once this phase of the exercise is complete, the recommendations arising have been the subject of consultation through the “Preferred Options” element of the Local Plan review and have been finally adopted following an Examination in Public. It is anticipated this entire process will not be completed until the end of 2014 and therefore any consultancy commission to take the Preferred Option(s) forward for the Airfield will be procured separately to this commission.

Bidder Information

The Request to Quote is issued in accordance with the requirements and processes of the Government procurement Service and has been issued to all Consultants whose name appears on the Multi-Disciplinary Consultancy Framework Agreement – Contract ID: RM353

Due to the importance of this commission, the Council’s North Weald Airfield and Asset Management Cabinet Committee will oversee the study and then make recommendations to the Cabinet. The Consultant’s commission will be deemed to be completed following a satisfactory presentation of their findings to the Cabinet.

Site Visit

It is the intention of the Council to provide an opportunity for bidders to come and view the site on Friday 30th November at 10.30am.

Please contact Mr John Gilbert, Director of Environment and Street Scene, on 01992 564062 if you wish to attend.

Framework Usage

Please note that this exercise is being conducted under the terms and conditions of GPS framework RM353, which the successful Consultant will be required to enter into with the Council shortly after being appointed. The Council has amended schedules 2-2 to 2-13 which are included at the end of this document for your information. Should you have any queries with these amendments please highlight these in your submission.

REQUIREMENTS

The quote submitted is to be based on the following requirements:

- (i) Bidders are to provide a method statement consisting of no more than four sides of A4 text clearly detailing how they propose to undertake the commission;
- (ii) Bids are invited on a fixed fee basis including all reasonable travelling and other expenses;
- (iii) The Terms and Conditions of Appointment will be set out in the Contract between the Council and its Consultant which shall be under seal;
- (iv) Consultants will be required to submit comprehensive reports and attend meetings on a regular basis at a frequency to be agreed. As an extra duty Consultants may be required to attend evening meetings in order to present reports and respond to questions from Members. A separate fee, inclusive of all reasonable travelling and other expenses should be quoted on the basis of a rate per meeting for each evening meeting, for all attendees, required to attend;
- (v) The Council does not bind itself to accept the lowest or indeed any bid as a result of this invitation and any appointment offer will be made following a decision by the interview panel as to the firm who has submitted the most economically advantageous offer in terms of price, relevant experience & method statement and presentation;
- (vi) Consultants should:
 - Name the lead consultant(s) and the members of their team and provide CVs for all who will be engaged in the commission
 - If the appointed Consultants intend to appoint additional and/or specialist Consultants to assist in the delivery of the commission, those additional and/or specialist Consultants shall be identified along with their lead consultant(s) and support teams and relevant CVs be provided
 - In the event of being selected for interview, ensure that all relevant members of the lead Consultants and supporting Consultants are available to attend and take part in the interview process
 - Be in a position to confirm that the consultancy team detailed in this submission should, as far as practicable, remain in place throughout the delivery of the commission.
- (vii) Consultants must be able to satisfy the Council that the Company is able to commit or engage sufficient, suitably experienced professional resources to meet all requirements of the brief and form a view on all activities currently undertaken on the site or likely to impact on the site.

HEALTH AND SAFETY

North Weald is an operational airfield and as such has restrictions in place to ensure the health and safety of those visiting and working on the Airfield. Consultants must be prepared to adhere to Airfield health and safety procedures and the Airfield Operations Manual, details of which will be provided to the successful Consultant.

The Consultant shall ensure that employees and agents shall in the course of this project comply with the Health and Safety at Work etc. Act 1974 (HSWA), which term shall include all Regulations, Orders, Codes of Guidance and any other supplemental Legislation, Circulars or Guidance made or issued pursuant thereto and any statutory modification or re-enactment thereof together with any Code of Guidance prepared by the Council and supplied to the Consultant either before or during this project and that all persons who are at work, (as defined in that act), in connection with this project shall comply at all times with HSWA.

CONFIDENTIALITY

The Consultant shall not without the written consent of the Council during the term of the contract or at any time thereafter make use for their own purposes or disclose to any person any information or any material provided to the Consultant by the Council pursuant to the Contract, or any information acquired by the Council or in connection with the provision of the Services, all of which information shall be deemed to be confidential save as may be otherwise required by the general law.

The findings and final report of the Study, along with the supporting research shall be the sole property of the Council and shall not be disclosed to any other parties without the written consent of the Council.

AWARD & EVALUATION OF CONTRACT

The Contract will be awarded on the basis of the most economically advantageous quotation by applying the following weightings:

Evaluation Criteria	Weighting (%)
Relevant Experience & Proposed Approach: Bids must demonstrate attention to brief, ability to meet the project requirements, clarity of submission and demonstration of relevant expertise and experience of the team / sub contractors.	40
Presentation: Consultants must be able to satisfy the Council that the Company is able to commit or engage sufficient, suitably experienced professional resources to meet all requirements of the brief and form a view on all activities currently undertaken on the site or likely to impact on the site.	40
Price:	20
<p>Please note that it is the intention of the Council to invite only the top five (5) scoring Consultants to present to the Council – this will be determined based on the scores obtained from both the ‘Relevant Experience & Proposed Approach’ and ‘Price’ stages of the evaluation.</p> <p><i>For those invited to present, scores will be carried across from their ‘Relevant Experience & Proposed Approach’ and ‘Price’ sections and subsequently added to their score obtained at the Presentation stage.</i></p> <p><i>It is anticipated that Presentations will take place during January 2013. Please note that those bidders that are being asked to present will be notified of the specific date once the evaluation has been completed of both the ‘Relevant Experience & Proposed Approach’ and ‘Price’ stages of the evaluation.</i></p> <p><i>Please note that it is expected that the lead consultant that you have nominated to work on this project will be in attendance as part of your presentation party along with key members of their team.</i></p> <p><i>Presentations are to last no longer than 30 minutes followed by a 30 minute Q&A session.</i></p>	

The overall top scoring submission based on all three evaluation elements will be awarded the contract.

The Council will not be obliged to select the lowest or any quotation.

All Consultants’ total prices will be added together and then divided by the number of returns received. This will create a ‘mean’ figure against which the Consultants’ bids will be scored against accordingly. The ‘mean’ figure will attract a score of 10% with Consultants’ bids then ranked in accordance to this figures. An example of this would be if your total fixed price bid is 20% lower than the mean then your bid would score 12% and conversely if your bid was 20% more than the ‘mean’ figure then your bid would score 8%. Ultimately a maximum score of 20% is achievable should any bid come in at a zero cost.

The resultant percentage scores will be transferred across to the overall evaluation model. Any bid received that is more than twice the lowest price will be scored as zero in accordance with the above methodology.

INSURANCE INFORMATION

Please note the Council requires the following Insurance cover levels for this contract. Please provide copies of your latest certificates with your submission.

Professional Indemnity Insurance: £ (Limit of Cover)

Insurer: _____
Policy No: _____
Expiry Date: _____ (Please supply photocopy)

Please note Epping Forest District Council requires a minimum of £2million cover.

Public Liability Insurance: £ (Limit of Cover)

Insurer: _____
Policy No: _____
Expiry Date: _____ (Please supply photocopy)

Please note Epping Forest District Council requires a minimum of £5 million cover.

Employers Liability Insurance: £ (Limit of Cover)

Insurer: _____
Policy No: _____
Expiry Date: _____ (Please supply photocopy)

Please note that Epping Forest District Council requires a minimum £10 million cover.

Please note that should your submission be successful but you do not currently have the required levels there will be an expectation that you obtain them prior to award. Please use the comment box below to confirm your acceptance to this position. Failure to do so will result in your bid being rejected.

INSTRUCTIONS

Please complete the enclosed questionnaire in full. Supplementary information will only be accepted where it is properly referenced to the question to which it refers. Information provided but not properly referenced will not be taken into account and will not be scored.

The following sections will be scored: Relevant Experience & Proposed Approach, Contract Price, Presentation

Request for Quote Scoring Sheet	
Classification	Score
Exceptional - meets and exceeds all the requirements	5
Very good - meets all of the requirements	4
Good - meets most of the requirements	3
Poor - meets some of the requirements	2
Very poor - meets only a very few of the requirements	1
Unacceptable - meets none of the requirements / no information provided	0

Please return two hard copies of the questionnaire, including all supporting documentation clearly referenced to the particular questions by 3pm Friday 14 December 2012.

GUIDANCE NOTES

The information disclosed in response to this questionnaire will be used in the selection of Consultants for the Council's North Weald Airfield Review.

Please note that whenever used in this questionnaire, the term "company" refers to a sole practitioner, partnership, consortium, incorporated company, co-operative, charity or analogous entities operating outside the UK, as appropriate, and the term "officer" refers to any director, company secretary, partner, associate, trustee or other person occupying a position of authority or responsibility within the firm.

Unless instructed otherwise when answering the questions, please give details which specifically relate to your company, not to the whole of the group if your company forms part of a group.

Please include, where appropriate, any supporting documents, marking clearly on all enclosures the name of your company and the number of the question to which they refer. Where the space given for any answer is insufficient, please continue your answer on a separate page, again clearly marking your company's name and the question number to which it relates.

North Weald Airfield Review

Request for Quote

Please complete the following application and return by 3pm Friday 14 December 2012.

Enclose all documents and copy documents as requested.

Note: Where space is insufficient for any entry please continue on a separate sheet, quoting the appropriate question number.

RELEVANT EXPERIENCE & PROPOSED APPROACH

Please detail below the specific skills and relevant experience your Company can bring to the undertaking of the Study. Please also include comprehensive CVs for all staff to be engaged on the project. Where additional and/or specialist consultants are to be used CVs are to be provided for those engaged on the commission.

Please detail below your Company's proposed approach, clearly identifying how your Company intends to undertake the commission (no more than four sides of A4 text). This should include all details of additional or specialist consultancies to be used, and their specific role, in delivering the commission.

Your proposed approach should also clearly identify the indicative timescales (in calendar days) that you require in order to complete the review.

Proposed Approach (cont.)

Empty response area for the proposed approach.

Proposed Approach (cont.)

Empty response area for the proposed approach.

Proposed Approach (cont.)

Empty response area for the proposed approach.

CONTRACT PRICE

Please state below the total fixed price for the Study including all reasonable travelling and other expenses:

£ _____

Please provide a rate (per meeting) for each evening & Saturday meeting(s) that you may be required to attend. Fee to be inclusive of all reasonable travelling and other expenses for all attendees:

£ _____ Per evening meeting

£ _____ Per Saturday meeting

CONTACT DETAILS

Please state the name and contact details of the person with whom regular communication will be made. This person will also be the person that will be expected to be in attendance at the presentation

Name	
Contact details	

CLARIFICATIONS & RETURN OF QUOTES

This quote process is being managed by The Essex Procurement Hub on behalf of Epping Forest District Council. All requests for additional information or clarifications should be directed by e-mail to: dominic.warren@braintree.gov.uk not later than 7 days before the due date for the return of the quotes. The Council will send any clarifications raised, together with replies given, to all bidders.

Please note that the return date for submissions is **3pm on Friday 14 December 2012**. Two copies of your submissions should be sent in hard copy format to the address below.

Return to: Dominic Warren
The Essex Procurement Hub
Braintree District Council
Causeway House
Braintree
Essex
CM7 9HB

Please mark the envelope: ‘**RFQ – NWA Review - EFDC.**’ Please ensure no other markings bearing your company’s name are on the outside of your submission as this could result in your bid being rejected.

Epping Forest and the Essex Procurement Hub are not bound to accept the lowest priced bid. Quotes will be evaluated in accordance with the criteria stated within the above specification.

For further Information: Dominic Warren

Tel: 01376 551414

E-mail: dominic.warren@braintree.gov.uk

FREEDOM OF INFORMATION

As part of our duty under the Act, when a Freedom of Information request is received, we may have to disclose information that forms part of your RFQ, tender, bid or associated documentation unless an exemption applies as defined by the Act.

There are, for example, exemptions:

- against disclosing information where that would constitute an actionable breach of confidence
- against disclosing trade secrets
- against disclosing information likely to prejudice any person’s commercial interests (and this includes the Council’s commercial interests).

The Council will be mindful of the potential commercial risks to you as a prospective Consultant and will comply with its obligations of confidentiality where they arise, subject to its legal obligations.

If you consider that any of the information you submit to the Council should not be disclosed because of its sensitivity, then this should be stated with the reason for believing it to be exempt in accordance with the Act. The Council will then, in future, seek to consult with you in considering any Freedom of Information request received, before replying to the request within the mandatory timescales.

It should be noted, however, that disclosure is assumed to be required under the law unless an exemption under the Act can be applied and, subject to the enforcement role of the Information Commissioned, the Council has to make a judgment as to the applicability of any exemption on the basis of all the facts in its possession, including its assessment as to whether there is a public interest in such disclosure.

CERTIFICATE THAT THE QUOTE IS A BONA FIDE QUOTE

WE CERTIFY THAT:

1. The quote submitted herewith is a bona fide quote, intended to be competitive.
2. We have not fixed or adjusted the amount of the quote under or in accordance with any agreement or arrangement with any other person.
3. We have not done and we undertake that we will not do at any time before the hour specified for the return of the quote any of the following acts:
 - (a) communicate to a person other than the person calling for this quote the amount or approximate amount of the proposed quote (except where the disclosure, in confidence, of the approximate amount of the quote was essential to obtain insurance premium quotations required for the preparation of the quote);
 - (b) enter into any agreement with any other person that he/she shall refrain from quoting or as to the amount of any quote to be submitted;
 - (c) offer or pay or give or agree 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 quote or proposed quote any act or thing of the sort described above.

In this certificate:

- i). "person" includes any person and anybody or association corporate or incorporate.
- ii). "any agreement or arrangements" includes any transaction of the sort described above, formal or informal and whether legally binding or not.

DATED this day of 2012

SIGNED (as in quote) _____

**duly authorised to sign
for and on behalf of** _____

Name _____

Designation _____

DECLARATION

To: Epping Forest District Council

I / We _____

of _____

undertake to execute and complete all the Service required to be performed in accordance with the Specification, Prices and Agreement contained therein and any other documents as submitted.

If my / our proposal is accepted I / we undertake forthwith to enter into the Agreement for the proper and complete fulfilments of the Service and further undertake to enter into a contract performance bond and provide a Guarantee (if required) by our holding company.

I / We agree that the proposal shall remain open to be accepted or not by the Authority and shall not be withdrawn before the Commencement Date of the Contract.

Signed _____

Status _____

For and on behalf of _____

Date _____

Signed _____

Status _____

For and on behalf of _____

Date _____

1. Where the Applicant is a limited company, the Quote must be signed on behalf of the company by two directors or a director, and/or the company secretary.
2. Where the Applicant is an individual, the Quote must be signed with the firm’s name followed by the personal signature of the proprietor.
3. In the case of a partnership, two partners must sign the Quote on behalf of the partnership and the names and addresses of all partners must be provided on a separate sheet and attached to the Quote.

SCHEDULE 2-1

INTERPRETATIONS

Acceptance Test	means a test to be conducted in accordance of the provisions of Schedule 2.5.
Acceptance Test Criteria	means the test criteria specified in Schedule 2.5.
Acceptance Test Period	means the period during which the Service Acceptance Procedure shall be performed, pursuant to the provisions of Schedule 2.5. The Acceptance Test Period, unless otherwise specified in the Order shall be a period of thirty (30) days.
Acquired Rights Directive	means the European Council Directive 77/187/EEC on the approximation of laws of European member states relating to the safeguarding of employees' rights in the event of transfers of undertakings, businesses or parts of undertakings or businesses, as amended.
Additional Clauses	means the additional Clauses specified in Annex A to this Contract that were requested in the Order by the CUSTOMER and that shall apply to this Contract.
Affiliate	means any person, partnership, joint venture, corporation or other form of enterprise, domestic or foreign, including but not limited to subsidiaries, that directly or indirectly are controlled by, or are under common control with the SERVICE PROVIDER or a Parent Company.
Alternative Clauses	means the alternative Clauses specified in Annex A to this Contract that were requested in the Order by the CUSTOMER and that shall apply to this Contract.
Catalogue	means the catalogue of services available for Order under the provisions of the Framework Agreement.
Charges	means the rates and charges set out in Schedule 2-3.
Charges Variation Procedure	means the procedure for varying the Charges specified in Schedule 2-3.
Confidential Information	means any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including Intellectual Property Rights, together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential.
Contract Change Note	means the contract change note specified in Schedule 2-7.
Contract Change Procedure	means the contract change procedure specified in Schedule 2-7 for making changes to this Contract.

Contract Generated Intellectual Property Rights	means any Intellectual Property Rights created by the SERVICE PROVIDER as a result of the performance by the SERVICE PROVIDER of its obligations under this Contract.
Contracting Authority	means a contracting authority as defined in Regulation 5(2) of the Public Contracts Works Services and Supply (Amendment) Regulations 2000.
Data Protection Requirements	mean the Data Protection Act 1998, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.
Days	means calendar days.
Default	means any breach of the obligations of any party (including but not limited to fundamental breach or breach of a fundamental term) or any default, act, omission, negligence or statement of any party, it's employees, agents or sub-contractors in connection with or in relation to the subject matter of this Contract and in respect of which such party is liable to the other.
Employee Liabilities	means all claims, including claims for redundancy payments, unlawful deduction of wages, unfair, wrongful or constructive dismissal compensation, compensation for sex, race or disability discrimination or discrimination on the grounds of religion, belief or sexual orientation or claims for equal pay, compensation for less favourable treatment of part-time workers, and any claims whether in tort, contract or statute or otherwise, demands, actions, proceedings and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs and expenses reasonably incurred in connection with a claim or investigation (including any investigation by the Equal Opportunities Commission, the Disability Rights Commission, or the Commission for Racial Equality or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation), and any expenses and legal costs on an indemnity basis.
Environmental Information Regulations	mean the Environmental Information Regulations 2004 and any guidance and/or codes of practice issued by the Information Commissioner in relation to such regulations.

Exit and Service Transfer Arrangements	means the arrangements set out in Schedule 2-11 which shall apply in the event of the expiry or termination of this Contract.
Framework Agreement	means the agreement between the AUTHORITY and the SERVICE PROVIDER, under which this Contract is entered into by the CUSTOMER and the SERVICE PROVIDER, for the provision of Consultancy Solutions Services.
FOIA	means the Freedom of Information Act 2000 and any subordinate legislation made under this Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner in relation to such legislation.
Government Procurement Card (GPC)	means the UK Government's VISA purchasing card.
Information	has the meaning given under section 84 of the Freedom of Information Act 2000.
Intellectual Property Rights	means patents, trade marks, service marks, design rights (whether registrable or otherwise), applications for any of the foregoing, copyright, database rights, trade or business names and other similar rights or obligations whether registrable or not in any country (including but not limited to the United Kingdom).
Invoicing Procedure	means the procedure by which the SERVICE PROVIDER invoices the CUSTOMER, as set out in Schedule 2-4.
Law	means any applicable law, statute, bye-law, regulation, order, regulatory policy, guidance or industry code, rule of court or directives or requirements of any Regulatory Body, delegated or subordinate legislation or notice of any Regulatory Body.
[Liquidated Damages Period]	means the period specified in paragraph 4 of Schedule 02-13 for each instance where Liquidated Damages apply.]
[Liquidated Damages]	means the liquidated damages specified in Schedule 02-13.]
Mediator	has the meaning ascribed to it in Schedule 2-9.
Model Confidentiality Agreement	means each of the model confidentiality agreements set out in Schedule 2-10.
Model Contract for Consultancy Solutions	means the model contract of that name, published by Government Procurement Service on its website.
Month	means a calendar month and "Monthly" shall be similarly construed.
Notice of Arbitration	means the formal notice from the SERVICE PROVIDER or the CUSTOMER to the other party referring a dispute to arbitration in accordance with the provisions of Schedule 2-9.
Order	means an order for services served by the CUSTOMER on the SERVICE PROVIDER.

Ordered Service	means a Catalogue entry selected by the CUSTOMER and included in Schedule 2-2 of this Contract pursuant to an Order.
Parent Company	means any company which is the ultimate Holding Company of the SERVICE PROVIDER or any other company of which the ultimate Holding Company of the SERVICE PROVIDER is also the ultimate Holding Company and which is either responsible directly or indirectly for the business activities of the SERVICE PROVIDER or which is engaged in the same or similar business to the SERVICE PROVIDER. The term "Holding Company" shall have the meaning ascribed by Section 736 of the Companies Act 1985 or any statutory re-enactment or amendment thereto.
Payment Profile	means the profile of payments to be made by the CUSTOMER to the SERVICE PROVIDER under the terms of this Contract as set out in Schedule 2-4.
Persistent Breach	means the SERVICE PROVIDER is in material breach of this Contract continuously for twenty (20) Working Days or more.
Personal Data	shall have the same meaning as set out in the Data Protection Act 1998.
Pre-Existing Intellectual Property Rights	shall mean any Intellectual Property rights vested in or licensed to the SERVICE PROVIDER or CUSTOMER prior to or independently of the performance by the SERVICE PROVIDER or CUSTOMER of their obligations under this Contract.
Private Authority	means a commercial organisation to whom service provision has been outsourced by a Contracting Authority, which assumes the role and responsibilities of the CUSTOMER under a Contract.
Quarter	means a three (3) month period beginning on 1 st January, 1 st April, 1 st July or 1 st October. The term 'Quarterly' shall be similarly construed.
Regulatory Bodies	means those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Contract or any other affairs of the CUSTOMER and "Regulatory Body" shall be construed accordingly.
Reports	means reports submitted by the SERVICE PROVIDER to the CUSTOMER as specified in Schedule 2-6.
Requests for Information	means a request for information or an apparent request under the Code of Practice on Access to Government Information, FOIA or the Environmental Information Regulations.

Service Acceptance Procedure	means the procedure of that name as specified in Schedule 2.5.
Service Commencement Date	means the date of commencement of the provision of the Ordered Services by the SERVICE PROVIDER in accordance with the Order.
Service Credits	means the service credits specified in Schedule 2-2 which shall be payable to the CUSTOMER by the SERVICE PROVIDER in the event that the Service Levels are not met in respect of Ordered Services.
Service Levels	means the levels of service defined in Schedule 2-2.
Service Transfer	means any transfer of the Ordered Services (or any part of the Ordered Services), for whatever reason, from the SERVICE PROVIDER or any Sub-Contractor to the CUSTOMER or to a replacement service provider.
Service Transfer Date	means the date of a Service Transfer.
Standards and Regulations	means the standards and regulations as set out in Clause 3 with which the SERVICE PROVIDER shall comply in the provision of the Ordered Services and its responsibilities and obligations hereunder.
Sub-Contractor	means any supplier selected, appointed and managed by the SERVICE PROVIDER in accordance with the provisions of Schedule 2-8, including the Sub-Contractors specified in Schedule 2-8. The terms “Sub-Contract” and “Sub-Contracting” shall be similarly construed.
[Technical Branch]	[means [*** where the Order specifies the use of Access to MoD Sites Additional Clause, the Order should also specify the definition of Technical Branch ***].]
Term	means the term of this Contract as set out in Clause 11, subject to early termination pursuant to Clause 11.
Termination Events	means each of the events specified in Clause 11.3.
Transferring Customer Employees	means those employees of the CUSTOMER to which TUPE will apply on the Service Commencement Date, and in respect of whom written notification has been given by the CUSTOMER to the SERVICE PROVIDER before the Service Commencement Date.
Transferring Service Provider Employees	has the meaning given to it in Schedule 02-11 (Exit and Service Transfer Arrangements)
TUPE	means the Transfer of Undertakings (Protection of Employment) Regulations 1981 (SI 1981/1794) as amended or replaced or any other regulations or UK legislation implementing the Acquired Rights Directive.
Working Days	means Monday to Friday inclusive, excluding English public and bank holidays.

Year	means a calendar year.
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SCHEDULE 2-2

THE ORDERED SERVICES, SERVICE LEVELS AND SERVICE CREDITS

1. INTRODUCTION

1.1. This Schedule 2-2 specifies:

1.1.1. the Ordered Services;

1.1.2. the Service Levels applicable to each of the Ordered Services; and

1.1.3. the Service Credits applicable where Service Levels are not met.

2. THE ORDERED SERVICES

2.1. Please refer to the Request for Quote for list of ordered services on page 5 No 7 The Commission

3. SERVICE LEVELS

3.1. Please refer to the Request for Quote for list of Service Levels on page 5 No 7 The Commission

4. SERVICE CREDITS

4.1. N/A

SCHEDULE 2-3

1. INTRODUCTION

1.1. This Schedule 2-3 details:

1.1.1. the Charges for the Ordered Services; and

1.1.2. the Charges Variation Procedure applicable to this Contract.

2. THE CHARGES

2.1. ~~*** to be inserted relative to the service specified in Catalogue and/or Order ***~~

3. CHARGES VARIATION PROCEDURE

3.1. The Charges shall only be varied due to:

3.1.1. indexing, in accordance with the provisions of paragraph 4 of this Schedule 2-3;
and

3.1.2. agreement between the parties at any time to decrease any of the Charges.

4. INDEXING

4.1. In accordance with the provisions of the Framework Agreement, at 30 September 2008 and on the anniversaries of that date, the Charges shall be varied by the application of the following formula:

$$\text{NC} = \text{EC} * X$$

where:

NC = New Charge

EC = Existing Charge, and

X = $1 + \frac{\text{(\% change in RPIX Index)}}{100}$

100

5. Index

5.1. RPIX Index The "Retail Prices Index excluding mortgage interest rates (RPIX)" as published by the Office of National Statistics (<http://www.statistics.gov.uk/instantfigures.asp>). The measurement to be used in the variation calculation of the variable 'X' in paragraph 4.1 of this Schedule 2-3 shall be the percentage "Annual change" in the RPIX Index in respect of the "Period" of the Month in which the relevant anniversary occurred.

5.2. Where the published figure specified in paragraph 5.1 of this Schedule 2-3 is stated to be a provisional figure or is subsequently amended, that figure shall apply as ultimately confirmed or amended.

6. Implementation Of Adjusted Charges

6.1. Charges varied in accordance with the provisions of this Schedule 2-3 shall be amended by the SERVICE PROVIDER to take effect on the relevant date.

SCHEDULE 2-4

INVOICING PROCEDURE

1. INTRODUCTION

1.1. This Schedule 2-4 sets out the Invoicing Procedure that shall apply to this Contract.

2. INVOICING PROCEDURE

2.1. The SERVICE PROVIDER shall submit invoices directly to:

Invoices Section

Finance & ICT

Epping Forest District Council

Civic Offices, High Street, Epping, Essex CM16 4BZ

2.2. Invoices shall specify:

2.2.1. the unique Order reference TBA;

2.2.2. [the payment milestone (if any) within this Contract to which the invoice relates and a summary of the corresponding Ordered Services;]

~~2.2.3. any Service Credits due;~~

~~2.2.4. the line value;~~

2.2.5. total value excluding Value Added Tax (VAT);

2.2.6. the VAT percentage

2.2.7. the total value including VAT; and

2.2.8. the tax point date relating to the rate of VAT shown.

3. INVOICE PAYMENT

3.1. The CUSTOMER shall pay all valid invoices submitted in accordance with the provisions of this Schedule 2-4 in accordance with the provisions of Clause 6.

3.2. In the event of a disputed invoice, the CUSTOMER shall make payment in respect of any undisputed amount in accordance with the provisions of Clause 6 and return the invoice to the SERVICE PROVIDER within ten (10) Working Days of receipt with a covering statement proposing amendments to the invoice and/or the reason for any non-payment. The SERVICE PROVIDER shall respond within ten (10) Working Days of receipt of the returned invoice stating whether or not the SERVICE PROVIDER accepts the CUSTOMER's proposed amendments. If it does then the SERVICE PROVIDER shall supply with the response a replacement valid invoice. If it does not then the matter shall be dealt with in accordance with the provisions of Clause 19.

4. PAYMENT PROFILE

4.1. The Payment Profile in respect of the Ordered Services provided under this Contract is Monthly in arrears.

SCHEDULE 2-5

SERVICE ACCEPTANCE PROCEDURES

~~1. INTRODUCTION~~

- ~~1.1 This Schedule 2-5 specifies the Service Acceptance Procedures and the Acceptance Test Criteria to be used in the acceptance of the Ordered Services.~~
- ~~1.2 The Acceptance Test Period shall be a period of [*** ***].~~

~~2. SERVICE ACCEPTANCE PROCEDURES~~

- ~~2.1 The SERVICE PROVIDER shall, during the Acceptance Test Period, make available the Ordered Services to the CUSTOMER (including any products supplied by the SERVICE PROVIDER necessary to enable the provision of those Ordered Services) for the Service Acceptance Procedures to be performed.~~
- ~~2.2 The CUSTOMER will conduct Acceptance Tests on the Ordered Services to test whether they meet the requirement specified in the Order and meet the appropriate Service Levels.~~
- ~~2.3 The CUSTOMER will perform the Service Acceptance Procedures in respect of each Ordered Service.~~
- ~~2.4 The Service Acceptance Procedures shall be recorded as successful and the SERVICE PROVIDER notified accordingly where all the Acceptance Test Criteria are met.~~
- ~~2.5 The Service Acceptance Procedures shall be recorded as unsuccessful and the SERVICE PROVIDER notified accordingly where any of the Acceptance Test Criteria are not met.~~
- ~~2.6 In the event that the Service Acceptance Procedures in respect of each Ordered Service or any part thereof, have not been recorded as successful pursuant to paragraph 2.4 by the end of the relevant Acceptance Test Period, the CUSTOMER will extend the Acceptance Test Period by a period of ten (10) Working Days (or such other period as the parties may agree) during which the SERVICE PROVIDER shall correct the faults which caused the Service Acceptance Procedures to be recorded as unsuccessful and the Service Acceptance Procedures shall be re-performed.~~
- ~~2.7 In the event that after the CUSTOMER has extended the Acceptance Test Period pursuant to paragraph 2.6 the relevant Service Acceptance Procedures have not been recorded as successful by the end of that period, the CUSTOMER shall, without prejudice to its other rights and remedies, be entitled to:~~
- ~~2.7.1 extend the Acceptance Test Period for a further period (or periods) specified by the CUSTOMER during which the SERVICE PROVIDER shall correct the faults which caused the Service Acceptance Procedures to be recorded as unsuccessful and the Service Acceptance Procedures shall be re-performed; or~~
- ~~2.7.2 reject the Ordered Service and terminate this Contract and receive a full refund of all sums paid under this Contract in respect of Service provision after the commencement of the Service Acceptance Procedures.~~
- ~~2.8 If the CUSTOMER fails to carry out the relevant Acceptance Tests within the Acceptance Test Period and such failure is wholly and solely due to the actions or inactivity of the CUSTOMER, the Acceptance Tests shall be deemed to have been completed successfully.~~

~~3. ACCEPTANCE TEST CRITERIA~~

~~3.1 [*** The Acceptance Test Criteria pertaining to each Ordered Service, as specified in the Catalogue, should be inserted here. ***]~~

SCHEDULE 2-6

CONTRACT AND SERVICE MANAGEMENT

1. INTRODUCTION

- 1.1. This Schedule 2-6 specifies the requirements in respect of Contract and service management issues.

2. REPORTS

- 2.1. When requested by the CUSTOMER, the SERVICE PROVIDER shall provide Reports electronically to the CUSTOMER at its main offices at Epping Forest District Council, Civic Offices, High Street, Epping, Essex CM16 4BZ or any other such site or offices of the CUSTOMER as notified to the SERVICE PROVIDER from time to time
- 2.2. Such Reports, in respect of each Month, shall be submitted Monthly.
- 2.3. Reports shall include:
- 2.3.1. a record of the Ordered Services provided to the CUSTOMER;
 - 2.3.2. a record of the invoices raised by the SERVICE PROVIDER;
 - 2.3.3. a record of any failures to provide Ordered Services in accordance with the Contract;
 - 2.3.4. details of the number and nature of any complaints from the CUSTOMER;
 - 2.3.5. details of Sub-Contractors used; and
 - 2.3.6. a forecast of the value of Invoices to the CUSTOMER for each of the following three (3) Months.

3. REVIEW MEETINGS

- 3.1. When requested by the CUSTOMER'S, John Gilbert, Director of Environmental Services and Street Scene and [*** CUSTOMER'S first point of contact ***] and /or nominated representatives shall attend review meetings at a location and frequency to be agreed between John Gilbert Director of Environmental Services and Street Scene and [*** CUSTOMER'S first point of contact ***].

SCHEDULE 2-7

CONTRACT CHANGE PROCEDURE

~~1. INTRODUCTION~~

- ~~1.1. This Schedule 2-7 sets out the Contract Change Procedure to be used by the CUSTOMER and the SERVICE PROVIDER to effect changes to this Contract.~~

~~2. PRINCIPLES~~

- ~~2.1. The CUSTOMER and the SERVICE PROVIDER shall conduct discussions relating to proposed changes to this Contract in good faith. Neither party shall unreasonably withhold or delay consent to the other party's proposed changes.~~
- ~~2.2. Until such time as a Contract Change Note (CCN) has been signed by both parties, the SERVICE PROVIDER shall continue to provide and make available to CUSTOMERS the Ordered Services in accordance with this Contract.~~
- ~~2.3. Any work undertaken in connection with any proposed change to this Contract by the SERVICE PROVIDER, its Sub-Contractors or agents (other than that which has previously been agreed in accordance with the provisions of paragraph 2.2 of this Schedule 2-7) shall be undertaken entirely at the expense and liability of the SERVICE PROVIDER unless otherwise agreed between the CUSTOMER and the SERVICE PROVIDER in advance.~~
- ~~2.4. Any discussions, negotiations or other communications which may take place between the parties in connection with any proposed change to this Contract, including but not limited to the submission of any written communications, prior to the signing by both parties of the relevant CCN, shall be without prejudice to the rights of either party.~~

~~3. PROCEDURE~~

- ~~3.1. Should either party wish to amend this Contract, that party shall submit a draft CCN detailing the proposed change to the other party using the pro forma at paragraph 4 of this Schedule 2-7 in accordance with Clause 9.~~
- ~~3.2. Within ten (10) Working Days of the submission of a draft CCN (or such other period as may be agreed between the parties) the receiving party shall respond to the draft CCN in accordance with Clause 9. If appropriate, the parties shall enter into discussions to discuss the draft CCN.~~
- ~~3.3. Discussion between the parties following the submission of a draft CCN shall result in either:~~
- ~~3.3.1. agreement between the parties on the changes to be made to this Contract (including agreement on the date upon which the changes are to take effect (the "effective date")); such agreement to be expressed in the form of proposed revisions to the text of the relevant parts of this Contract; or~~
- ~~3.3.2. no further action being taken on that draft CCN.~~
- ~~3.4. A draft CCN, the content of which has been agreed between the parties in accordance with paragraph 3.3.1 of this Schedule 2-7, shall be uniquely identified by a sequential number allocated by the CUSTOMER.~~
- ~~3.5. Two (2) copies of each CCN shall be signed by the SERVICE PROVIDER and submitted to the CUSTOMER not less than ten (10) Working Days prior to the effective date agreed in accordance with paragraph 3.3.1 of this Schedule 2-7.~~

~~3.6. Subject to the agreement reached in accordance with paragraph 3.3.1 of this Schedule 2-7 remaining valid, the CUSTOMER shall sign both copies of the approved CCN within five (5) Working Days of receipt by the CUSTOMER. Following signature by the CUSTOMER, one (1) copy of the signed CCN shall be returned to the SERVICE PROVIDER by the CUSTOMER.~~

~~3.7. A CCN signed by both parties shall constitute an amendment to this Contract pursuant to Clause 9.~~

~~4. The CCN pro forma is as follows:~~

~~Contract Change Note for the Contract Change Procedure~~

~~Sequential Number: _____ [to be allocated by the CUSTOMER]~~

~~Title: _____~~

~~Originator: _____ for the [CUSTOMER/SERVICE PROVIDER]~~

~~Date change first proposed: _____~~

~~Number of pages attached: _____~~

~~_____ WHEREAS the SERVICE PROVIDER and the CUSTOMER entered into a Contract for the provision of [] Services dated [date] and now wish to amend that Contract;~~

~~Reason for proposed change~~

~~[Party proposing change to complete]~~

~~Full details of proposed change~~

~~[Party proposing change to complete]~~

~~Details of likely impact, if any, of proposed change on other aspects of the Contract~~

~~[Party proposing change to complete]~~

~~IT IS AGREED as follows:~~

~~1. With effect from [date] the Contract shall be amended as set out below:~~

~~[Details of the amendments to the Contract to be inserted here to include the explicit changes required to the text in order to effect the change, i.e. Clause/Schedule/paragraph number, required deletions and insertions etc]~~

~~2. Save as herein amended, all other terms and conditions of the Contract inclusive of any previous CCNs shall remain in full force and effect.~~

~~Signed for and on behalf of the SERVICE PROVIDER~~

~~By~~

~~Name~~

~~Title~~

~~Date~~

~~Signed for and on behalf of the CUSTOMER~~

~~By~~

~~Name~~

~~Title~~

~~Date~~

SCHEDULE 2-8

SUB-CONTRACTORS

1. INTRODUCTION

1.1. This Schedule 2-8 contains:

1.1.1. details of the Sub-Contractors to be employed by the SERVICE PROVIDER in the provision of Ordered Services; and

1.1.2. the procedure to select, appoint and manage Sub-Contractors.

2. SUB-CONTRACTORS

2.1. Table of Sub-Contractors:

Name and full contact details	Obligation
TBA	TBA
TBA	TBA
TBA	TBA

3. PROCEDURE TO SELECT, APPOINT AND MANAGE SUB-CONTRACTORS

3.1. [DN The SERVICE PROVIDER's procedure as specified in the Framework Agreement should be inserted here].

SCHEDULE 2-9

DISPUTE RESOLUTION PROCEDURE

1. INTRODUCTION

- 1.1. In the event that a dispute cannot be resolved by the CUSTOMER and SERVICE PROVIDER representatives nominated under Clause 19.4 within a maximum of ten (10) Working Days after referral, the dispute shall be further referred to mediation in accordance with the provisions of Clause 19.5
- 1.2. Subject always to the provisions of Clause 19, nothing in this dispute resolution procedure shall prevent the CUSTOMER or the SERVICE PROVIDER from seeking from any court of the competent jurisdiction an interim order restraining the other party from doing any act or compelling the other to do any act.

2. MEDIATION

- 2.1. The procedure for mediation pursuant to Clause 19.5 and consequential provisions relating to mediation shall be as follows:
 - 2.1.1. a neutral adviser or mediator ('the Mediator') shall be chosen by agreement between the CUSTOMER and the SERVICE PROVIDER or, if they are unable to agree upon the identity of the Mediator within ten (10) Working Days after a request by one party to the other (provided that there remains agreement for mediation), or if the Mediator agreed upon is unable or unwilling to act, either party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution ('CEDR') to appoint a Mediator;
 - 2.1.2. the CUSTOMER and the SERVICE PROVIDER shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. The parties may at any stage seek assistance from the CEDR to provide guidance on a suitable procedure.
- 2.2. Unless otherwise agreed by the CUSTOMER and the SERVICE PROVIDER, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the parties in any future proceedings.
- 2.3. In the event that the CUSTOMER and the SERVICE PROVIDER reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on both parties once it is signed by the [*** the CUSTOMER's second point of contact ***] and [*** the SERVICE PROVIDER's second point of contact ***].
- 2.4. Failing agreement, either the CUSTOMER or SERVICE PROVIDER may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to this Contract without the prior written consent of both parties.
- 2.5. The CUSTOMER and the SERVICE PROVIDER shall each bear their own costs in relation to any reference made to the Mediator and the fees and all other costs of the Mediator shall be borne jointly in equal proportions by both parties unless otherwise directed by the Mediator.
- 2.6. Work and activity to be carried out under this Contract shall not cease or be delayed during the mediation process.

-
- 2.7. In the event that the CUSTOMER and the SERVICE PROVIDER fail to reach agreement in the structured negotiations within forty (40) Working Days of the Mediator being appointed, or such longer period as may be agreed, then any dispute or difference between them may, subject to the agreement of both parties, be referred to arbitration in accordance with the provisions of Clause 19.5.

3. ARBITRATION

- 3.1. In the event that a dispute between the CUSTOMER and the SERVICE PROVIDER, or a claim by one against the other, pursuant to the terms of this Contract is not resolved pursuant to paragraph 2 of this Schedule 2-9, the parties may, in accordance with the provisions of Clause 19.5, refer the matter to arbitration in accordance with this Schedule 2-9.
- 3.2. The party seeking to initiate the arbitration shall give a written Notice of Arbitration to the other party. The Notice of Arbitration shall specifically state:
- 3.2.1. that the dispute is referred to arbitration;
 - 3.2.2. the particulars of this Contract; and
 - 3.2.3. a brief summary of the subject of the dispute.
- 3.3. Unless otherwise agreed in writing by the CUSTOMER and the SERVICE PROVIDER, the provisions of the Arbitration Act 1996 shall govern the arbitration commenced pursuant to this Schedule 2-9.
- 3.4. Any dispute arising out of or in connection with this Contract, including any question regarding its existence, validity or termination, if referred to arbitration in accordance with this Schedule 2-9 shall be resolved by arbitration under the procedural rules of the London Court of International Arbitration.
- 3.5. It is agreed between the CUSTOMER and the SERVICE PROVIDER that for the purposes of the arbitration, the arbitrator shall have the power to make provisional awards as provided for in Section 39 of the Arbitration Act 1996.
- 3.6. For the avoidance of doubt it is agreed by the CUSTOMER and the SERVICE PROVIDER that the arbitration process and anything said, done or produced in or in relation to the arbitration process (including any awards) shall be confidential between the parties, except as may be lawfully required in judicial proceedings relating to the arbitration or otherwise. No report relating to anything said, done or produced in or in relation to the arbitration process may be made to any body other than the tribunal, the CUSTOMER and the SERVICE PROVIDER, their legal representatives and any person necessary to the conduct of the proceedings, without the agreement of all parties to the arbitration.
- 3.7. The arbitration proceedings shall take place in London and in the English language and the arbitration proceedings shall be governed by, and interpretations made in accordance with, English law.
- 3.8. The CUSTOMER and the SERVICE PROVIDER shall each bear their own costs in relation to any reference made to the arbitrator and the fees and all other costs of the arbitrator shall be borne jointly in equal proportions by both parties unless otherwise directed by the arbitrator.
- 3.9. In the event that the CUSTOMER and the SERVICE PROVIDER do not agree to refer the matter to arbitration, then any dispute or difference between them may be referred to the Courts in accordance with the provisions of Clause 37.

SCHEDULE 2-10

MODEL CONFIDENTIALITY AGREEMENT

1. INTRODUCTION

1.1. This Schedule 2-10 contains Model Confidentiality Agreements.

1.2. Model Confidentiality Agreement (1) is appropriate for the provisions of Clause 17.4.1; and

1.3. Model Confidentiality Agreement (2) is appropriate for the provisions of Clause 17.4.2.

MODEL CONFIDENTIALITY AGREEMENT (1)

This Confidentiality Agreement is made on the [] day of [] 200[] between:

- A) [] (“the CUSTOMER”); and
B) [] (“the RECIPIENT”)

WHEREAS:

- 1) The CUSTOMER has entered into a Contract with [name] (“the SERVICE PROVIDER”);
- 2) This Confidentiality Agreement is pursuant to the provisions of Clause 17.4.1 of the Contract;
- 3) the RECIPIENT is a Crown Body; and
- 4) the CUSTOMER may have made available and may wish to make available to the RECIPIENT certain Confidential Information (as defined below). The CUSTOMER wishes to protect such information in the manner set out in this Confidentiality Agreement.

In consideration of the mutual promises contained herein, **IT IS HEREBY AGREED AS FOLLOWS:-**

1. DEFINITIONS

- 1.1. “Confidential Information” means any information, however it is conveyed, received by the RECIPIENT from the CUSTOMER that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including Intellectual Property Rights, of the SERVICE PROVIDER together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as “confidential”) or which ought reasonably to be considered to be confidential.
- 1.2. “Party” means either party to this Confidentiality Agreement as specified in A), and B) above.

2. HANDLING OF CONFIDENTIAL INFORMATION

- 2.1. The RECIPIENT shall, and shall ensure and procure that its servants shall, maintain the Confidential Information in strict confidence, including requiring its servants to enter into a confidentiality agreement on substantially the same terms as this Confidentiality Agreement, and shall, without limitation to the generality of this obligation, exercise in relation thereto no less security measures and degree of care than those which it applies to its own confidential information which it warrants as providing adequate protection against unauthorised disclosure, copying or use.
- 2.2. Upon termination of this Confidentiality Agreement, all Confidential Information received by the RECIPIENT and copies thereof shall be destroyed by him.

3. THE RECIPIENT OBLIGATIONS

- 3.1. The RECIPIENT shall:-
 - 3.1.1. not divulge the Confidential Information to any third Party other than as provided for in this Confidentiality Agreement; and
 - 3.1.2. make no commercial use of the Confidential Information or any part thereof.
- 3.2. Notwithstanding the foregoing, the RECIPIENT shall be entitled to make any disclosure required by law of the Confidential Information and shall notify the CUSTOMER of so doing in accordance with the provisions of paragraph 6.

4. EXCLUSIONS

- 4.1. This Confidentiality Agreement shall not apply to information which:
 - 4.1.1. is or becomes public knowledge without breach of this Confidentiality Agreement; or
 - 4.1.2. is already in the possession of the RECIPIENT without restriction in relation to disclosure before the date of its receipt with restriction from the CUSTOMER; or
 - 4.1.3. is received by the RECIPIENT from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.
 - 4.1.4. must be disclosed pursuant to a statutory, legal or parliamentary obligation placed upon the party making the disclosure, including any requirements for disclosure under the Freedom of Information Act 2000 or the Environmental Information Regulations 2004.
- 4.2. Notwithstanding the provisions of paragraph 4.1.2, where information disclosed to the RECIPIENT by the CUSTOMER without restriction is subsequently disclosed by the CUSTOMER with restriction, the RECIPIENT shall treat such information in accordance with the provisions of this Confidentiality Agreement with effect from the date of its disclosure with restriction. In all such cases, the parties shall use all reasonable endeavours to restore and maintain the confidentiality of that information.

5. DISCLAIMER

- 5.1. All rights in Confidential Information are reserved and no rights or obligations other than those expressly recited herein are granted or to be implied from this Confidentiality Agreement.
- 5.2. In particular, no licence or other interest is hereby granted directly or indirectly under any invention, discovery, patent, design right, copyright or other industrial property right now or in the future held, made, obtained or licensable by the CUSTOMER or the SERVICE PROVIDER.

6. NOTICES

- 6.1. Except as otherwise expressly provided, no communication from one Party to the other shall have any validity under this Confidentiality Agreement unless made in writing by or on behalf of the relevant Party.

7. TERMINATION

7.1. This Confidentiality Agreement shall continue in force until terminated by consent of the parties. The provisions of paragraphs 1, 2, 3 and 4 shall survive any such termination.

8. NON-ASSIGNMENT

8.1. This Confidentiality Agreement is personal to the RECIPIENT and shall not be assigned or otherwise transferred in whole or in part by the RECIPIENT.

9. ENTIRE AGREEMENT

9.1. This Confidentiality Agreement constitutes the entire agreement and understanding between the parties in respect of Confidential Information and supersedes all previous agreements, understandings and undertakings in such respect.

9.2. As witness this Confidentiality Agreement has been executed on behalf of each Party by its duly authorised representative on the date first above written.

10. THIRD PARTY RIGHTS

10.1. Except where expressly provided to the contrary, this Confidentiality Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person who is not named at the date of this Confidentiality Agreement as a party to it, or any person who claims rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise and neither party can declare itself a trustee of the rights under it for the benefit of any third party. The parties to this Confidentiality Agreement reserve the right to rescind or vary this Confidentiality Agreement without the consent of any third party who is expressly entitled to enforce this Confidentiality Agreement.

10.2. The Parties acknowledge that the rights set out in this Confidentiality Agreement may be enforced by the SERVICE PROVIDER.

For the RECIPIENT:

Signed by: _____

Date: _____

Name: _____

Title: _____

For the CUSTOMER:

Signed by: _____

Date: _____

Name: _____

Title: _____

MODEL CONFIDENTIALITY AGREEMENT (2)

This Confidentiality Agreement is made on the [] day of [] 200[] between:

- A) [] (“the CUSTOMER”); and
- B) [] (“the THIRD PARTY”)

WHEREAS:

- 1) The CUSTOMER has entered into a Contract with [name] (“the SERVICE PROVIDER”);
- 2) This Confidentiality Agreement is pursuant to the provisions of Clause 17.4.2 of the Contract;
- 3) the CUSTOMER has engaged the THIRD PARTY to provide services related to that Contract;
- 4) the CUSTOMER may have made available and may wish to make available to the THIRD PARTY certain Confidential Information (as defined below). The CUSTOMER wishes to protect such information in the manner set out in this Confidentiality Agreement.

In consideration of the mutual promises contained herein, **IT IS HEREBY AGREED AS FOLLOWS:-**

1. DEFINITIONS

- 1.1. “Confidential Information” means any information, however it is conveyed, received by the THIRD PARTY from the CUSTOMER that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of either party, including Intellectual Property Rights, of the SERVICE PROVIDER together with all information derived from the above, and any other information clearly designated as being confidential (whether or not it is marked as “confidential”) or which ought reasonably to be considered to be confidential.
- 1.2. “Party” means either party to this Confidentiality Agreement as specified in A), and B) above.

2. HANDLING OF CONFIDENTIAL INFORMATION

- 2.1. The THIRD PARTY shall, and shall ensure and procure that its servants shall, maintain the Confidential Information in strict confidence, including requiring its servants to enter into a confidentiality agreement on substantially the same terms as this Confidentiality Agreement, and shall, without limitation to the generality of this obligation, exercise in relation thereto no less security measures and degree of care than those which it applies to its own confidential information which it warrants as providing adequate protection against unauthorised disclosure, copying or use.
- 2.2. Upon termination of this Confidentiality Agreement, all Confidential Information received by the THIRD PARTY and copies thereof shall be destroyed by him.

3. THIRD PARTY OBLIGATIONS

- 3.1. The THIRD PARTY shall:-
- 3.1.1. not divulge the Confidential Information to any party other than as provided for in this Confidentiality Agreement;
 - 3.1.2. use the Confidential Information only for the purposes necessary in providing the services for which he is engaged by the CUSTOMER; and
 - 3.1.3. make no commercial use of the Confidential Information or any part thereof.
- 3.2. Notwithstanding the foregoing, the THIRD PARTY shall be entitled to make any disclosure required by law of the Confidential Information and shall notify the CUSTOMER of so doing in accordance with the provisions of paragraph 6.

4. EXCLUSIONS

- 4.1. This Confidentiality Agreement shall not apply to information which:
- 4.1.1. is or becomes public knowledge without breach of this Confidentiality Agreement; or
 - 4.1.2. is already in the possession of the THIRD PARTY without restriction in relation to disclosure before the date of its receipt with restriction from the CUSTOMER; or
 - 4.1.3. is received by the THIRD PARTY from a third party who lawfully acquired it and who is under no obligation restricting its disclosure.
- 4.2. Notwithstanding the provisions of paragraph 4.1.2, where information disclosed to the THIRD PARTY by the CUSTOMER without restriction is subsequently disclosed by the CUSTOMER with restriction, the THIRD PARTY shall treat such information in accordance with the provisions of this Confidentiality Agreement with effect from the date of its disclosure with restriction. In all such cases, the Parties shall use all reasonable endeavours to restore and maintain the confidentiality of that information.

5. DISCLAIMER

- 5.1. All rights in Confidential Information are reserved and no rights or obligations other than those expressly recited herein are granted or to be implied from this Confidentiality Agreement.
- 5.2. In particular, no licence or other interest is hereby granted directly or indirectly under any invention, discovery, patent, design right, copyright or other industrial property right now or in the future held, made, obtained or licensable by the CUSTOMER or the SERVICE PROVIDER.

6. NOTICES

- 6.1. Except as otherwise expressly provided, no communication from one Party to the other shall have any validity under this Confidentiality Agreement unless made in writing by or on behalf of the relevant Party.

7. TERMINATION

- 7.1. This Confidentiality Agreement shall continue in force until terminated by consent of the Parties. The provisions of paragraphs 1, 2, 3 and 4 shall survive any such termination.

8. NON-ASSIGNMENT

8.1. This Confidentiality Agreement is personal to the THIRD PARTY and shall not be assigned or otherwise transferred in whole or in part by the THIRD PARTY.

9. ENTIRE AGREEMENT

9.1. This Confidentiality Agreement constitutes the entire agreement and understanding between the Parties in respect of Confidential Information and supersedes all previous agreements, understandings and undertakings in such respect.

9.2. As witness this Confidentiality Agreement has been executed on behalf of each Party by its duly authorised representative on the date first above written.

10. THIRD PARTY RIGHTS

10.1. Except where expressly provided to the contrary, this Confidentiality Agreement is not intended to be for the benefit of, and shall not be enforceable by, any person who is not named at the date of this Confidentiality Agreement as a party to it, or any person who claims rights under the Contracts (Rights of Third Parties) Act 1999 or otherwise and neither party can declare itself a trustee of the rights under it for the benefit of any third party. The parties to this Confidentiality Agreement reserve the right to rescind or vary this Confidentiality Agreement without the consent of any third party who is expressly entitled to enforce this Confidentiality Agreement.

10.2. The Parties acknowledge that the rights set out in this Confidentiality Agreement may be enforced by the SERVICE PROVIDER.

For the THIRD PARTY:

Signed by: _____

Date: _____

Name: _____

Title: _____

For the CUSTOMER:

Signed by: _____

Date: _____

Name: _____

Title: _____

SCHEDULE 2-11

EXIT AND SERVICE TRANSFER ARRANGEMENTS

~~1. INTRODUCTION~~

- ~~1.1. This Schedule 2-11 describes the duties and responsibilities of the SERVICE PROVIDER to the CUSTOMER leading up to and covering the expiry or termination of this Contract and the transfer of service provision to a replacement service provider.~~
- ~~1.2. The objectives of the Exit and Service Transfer Arrangements are to ensure a smooth transition of the availability of the Ordered Services from the SERVICE PROVIDER to a replacement service provider at the termination or expiry of this Contract.~~

~~2. EXIT AND SERVICE TRANSFER ARRANGEMENTS~~

- ~~2.1. In the event that the CUSTOMER requires to continue the availability of services equivalent to the Ordered Services after termination or expiry of this Contract from a replacement service provider, the SERVICE PROVIDER shall work with the CUSTOMER with the objective of providing a smooth transition of the availability of the Ordered Services for their provision to the CUSTOMER under any new contract with a replacement service provider, and shall co-operate with the CUSTOMER and/or the replacement service provider as may be reasonably required in order to fulfil its obligations as set out in this Schedule 2-11.~~
- ~~2.2. The SERVICE PROVIDER shall not replace any parts or components of the equipment used for the provision of the Ordered Services with parts or components that are of lower quality or which are unsuitable for use in their designed purpose either by a CUSTOMER or a replacement service provider, prior to the expiry date of this Contract or any date of termination hereof.~~
- ~~2.3. The SERVICE PROVIDER agrees to indemnify and keep the CUSTOMER fully indemnified in respect of any claims, costs, demands, and liabilities arising from the provision of incorrect information provided to the CUSTOMER by the SERVICE PROVIDER, to the extent that any such claim, cost, demand or liability directly and unavoidably arises from the use of the incorrect information in a manner that can be reasonably be assumed to be proper in bidding for or providing services similar to the Ordered Services.~~
- ~~2.4. The SERVICE PROVIDER agrees to continue to satisfy all of its obligations in respect of this Contract with respect to all outgoing and accrued liabilities in respect of the SERVICE PROVIDER's employees and Sub-Contractors involved in performing the SERVICE PROVIDER's obligations under this Contract.~~
- ~~2.5. Substitute Resources;~~
 - ~~2.5.1. The SERVICE PROVIDER shall not replace any parts or components of the equipment used for the provision of the Ordered Services with parts or components that are of lower quality or which are unsuitable for the purposes of the use of a CUSTOMER or replacement service provider prior to the expiry date of this Contract or any date of termination hereof; and~~
 - ~~2.5.2. The SERVICE PROVIDER shall not replace any SERVICE PROVIDER personnel employed with respect to the provision of the Ordered Services with replacement personnel who are of lower quality, or of lower grade within the SERVICE PROVIDER or its Sub-Contractor's organisation as appropriate, or who are unsuitable for the purposes of providing the Ordered Services, prior to the expiry date of this Contract or any date of termination hereof.~~

SCHEDULE 2-12

STANDARDS AND REGULATIONS

1. INTRODUCTION

- 1.1. This Schedule 2-12 sets out the Standards and Regulations with which the SERVICE PROVIDER shall comply in its provision of the Ordered Services.
2. Please refer to the Request for Quote for list of Standards and Regulations page 8 Health and Safety

SCHEDULE 2-13

LIQUIDATED DAMAGES

~~1. INTRODUCTION~~

- ~~1.1. Where it is appropriate, the CUSTOMER may opt for liquidated damages in certain circumstances rather than the rights and remedies expressed in the Contract. This provision may be used when the timescales for achieving Acceptance are of particular importance to the CUSTOMER and the CUSTOMER is able to calculate a genuine pre-estimate of loss at paragraph 6.1.~~

~~2. LIQUIDATED DAMAGES~~

- ~~2.1. Without prejudice to any other remedies available to the CUSTOMER:~~

~~2.1.1. if the Acceptance Procedures have not been recorded as successful in accordance with paragraph 2.4 of Schedule 02-05 by the end of the Acceptance Test Period the SERVICE PROVIDER shall pay to the CUSTOMER as liquidated damages for each day of delay the relevant sum specified in paragraph 5 up to the end of the relevant Liquidated Damages Period. Such payment shall be in full and final settlement of the SERVICE PROVIDER's financial liability for any loss or damage incurred by the CUSTOMER during the Liquidated Damages Period; and~~

~~2.1.2. if the Acceptance Procedures have not been recorded as successful by the end of the Liquidated Damages Period, the CUSTOMER shall be entitled to claim any remedy available to it for loss or damage incurred by it thereafter.~~

- ~~2.2. No payment or concession to the SERVICE PROVIDER by the CUSTOMER or other act or omission of the CUSTOMER shall in any way affect the rights of the CUSTOMER to recover the liquidated damages pursuant to the provisions of paragraph 2.1 or be deemed to be a waiver of the right of the CUSTOMER to recover any such damages unless such waiver has been expressly made in writing by the CUSTOMER and refers specifically to a waiver of the CUSTOMER's rights to claim liquidated damages.~~

- ~~2.3. At the date hereof, the SERVICE PROVIDER and the CUSTOMER agree that the daily liquidated damages sum specified in paragraph 5 represents a genuine pre-estimate of the CUSTOMER's loss, calculated in paragraph 6:~~

~~3. CIRCUMSTANCES WHERE LIQUIDATED DAMAGES APPLY~~

- ~~3.1. [*** DN: insert full details of circumstances where liquidated damages apply. ***]~~

~~4. PERIOD OF LIQUIDATED DAMAGES~~

- ~~4.1. [*** DN: insert full details of period of liquidated damages. ***]~~

~~5. AMOUNT OF LIQUIDATED DAMAGES~~

- ~~5.1. [*** DN: insert full details of value of liquidated damages. ***]~~

~~6. CALCULATION OF GENUINE PRE-ESTIMATE OF LOSS~~

- ~~6.1. [*** DN: full details of the calculation of the estimate should be inserted here. ***]~~