## **BIRMINGHAM CITY COUNCIL**

- 2.5.7 The Council shall provide to the Provider, no less than 3 working days prior to the release of any information requested, a copy of the response to the request.
- 2.5.8 The Council shall be responsible for determining at its absolute discretion whether any information:
  - (i) Is exempt from disclosure in accordance with the provisions of the Access to Information Legislation.
  - (ii) Is to be disclosed in response to a request and in no event shall the Provider respond directly to a request unless expressly authorised to do so by the Council.
- 2.5.9 The Provider shall ensure that all information produced in the course of this Contract or relating to the Contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time.
- 2.5.10 The Provider acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose the Confidential Information.

#### 2.6 Transparency

2.6.1 The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the text of this Contract, and any Schedules to this Contract, are not confidential information. The Council shall be responsible for determining in its absolute discretion whether any part of the Contract or its Schedules is exempt from disclosure in accordance with the provisions of the FOIA.

#### **Marking of Tender Documents**

2.7 If the Provider considers that any other part of its tender (other than price) apart from Parts entitled "Payment by BACS", "Financial References Authority", "Statement of Insurance Cover", "Tenderer's Proposals/Method Statement" and "Tender Pricing Summary" is confidential it should appropriately mark that part of its document and explain the justification for so doing. It would in all circumstances be inappropriate merely to mark all parts of a tender as confidential. In law confidentiality will not arise by simply marking a document confidential.

### Consequences of Termination by the Provider

- 9.10 If the Provider shall terminate this Contract under Condition 8.9 the Provider shall be entitled to receive:
  - a) payment for the performance of the Services up to the date of termination; and b) any direct loss and/or expense arising out of the termination of the Contract.

### 10. **DISPUTE RESOLUTION**

10.1 If a dispute arises between the Council and the Provider in connection with this

the Contracts (Rights of Third Parties) Act 1999. If the Parties rescind this contract or vary any of its terms in accordance with the relevant provisions of this contract, such rescission or variation will not require the consent of any Third Party.

11.9 Notwithstanding the provisions of Condition 10.8, any of the Benefitting Employees shall have the right to enforce their rights under Condition 4.6 (Payment of Living Wage) of this Contract.

#### No Waiver

11.10 Failure by either party at any time to enforce any one or more of the provisions of this Contract or to require performance by the other Party of any of the provisions shall not constitute or be construed as a waiver of the provision or of the right at any time subsequently to enforce all terms and conditions of this Contract nor affect the validity of the Contract or any part of it or the right of the parties to enforce any provision in accordance with its terms.

#### Severance

11.11 If any provision of the Contract shall become or shall be declared by any court of competent jurisdiction to be invalid or unenforceable in any way, such invalidity shall not impair or affect any other provision all of which shall remain in full force and effect.

#### Additional Clause:

### No marketing rights

The Supplier shall not and shall procure that their subcontractors, representatives, agents and/or advisors do not do any of the following without obtaining the prior written consent of the Contracting Authority:

- .1 make a public statement or communicate in any form with the media in connection with this agreement.
- .2 use any trademarks, logos or other intellectual property rights associated with the Contracting Authority and/or Games Partners.
- .3 represent that the Supplier is directly or indirectly associated in any way with the Commonwealth Games, Games Partners, the Contracting Authority and/or its stakeholders or that its or their respective products and/or services are in any way endorsed by the Contracting Party and/or its stakeholders; or
- .4 do anything or refrain from doing anything which would have an adverse effect on or embarrass the Contracting Authority, Games Partners and/or its stakeholders.

At no time will the Supplier or its subcontractors, representatives, agents and/or advisors have the right to use:

- .1 Any Commonwealth Games marks, symbols, terminology, or derivatives thereof; or
- .2 Any logos, symbols associated with the Birmingham 2022 Commonwealth games or derivatives thereof.

save as may be expressly permitted by the prior written consent of the Contracting Authority.

### **APPENDIX 1**

### ("Living Wage Policy")

The Provider shall comply with the following provisions in respect of its compliance with Condition 4.6 of the Contract at all times and where applicable:

### 1.0 BACKGROUND

- 1.1
  Wage, as part of a Business Charter for Social Responsibility, for Council employees and the promotion of this amongst Birmingham businesses.
- 1.2 The Council has paid the Living Wage as set out by the Living Wage Foundation to its employees since July 2012, including Community, Community special, Voluntary Controlled and Maintained Nursery Schools.
- 1.3 In October 2012 the Council obtained Living Wage employer accreditation where it committed to work towards the adoption of the Living Wage within its supply chain.
- 1.4 linked Birmingham Business Charter for Social Responsibility (BBC4SR) and Social Value policies. These policies were adopted against the backdrop of the recently enacted Public Services (Social Value) Act 2012. They are aimed at maximising the social, economic, and
- 1.5 In April 2014 the Real Living Wage was applied by the Council to all its contracted agency staff.

the same minimum rate as if they worked directly for the Council. We also believe that since our procurement policies mean that more of them will be Birmingham residents, then putting

virtuous spiral that can treble its value to the local economy. There is plenty of evidence that paying the Real Living Wage, as set out by the Living Wage Foundation, boosts flexibility and performance, reduces sickness and aids staff retention.

### 2.0 WHAT WE MEAN BY THE REAL LIVING WAGE

2.1

# 3.0 THE POLICY CONTEXT

3.1 The strategic context for the