

LONDON 2012 E-TENDERING SERVICE USER AGREEMENT (“User Agreement”)

1. Introduction

1.1. This User Agreement is between (i) the Buyer and (ii) the Supplier and governs access to and use of the System by the Supplier and the Supplier’s Users. The System is the medium through which the Buyer intends to procure its requirements for goods, services, supplies, utilities and/or works. Any person, firm or organisation wishing to respond to an invitation from the Buyer to participate in a procurement exercise is required to register for use of the System by agreeing to abide by the terms of this User Agreement.

1.2. A procurement exercise may include an Expression of Interest (EOI), Pre-Qualification Questionnaire (PQQ), a Request for Information (RFI), an Invitation to Tender (ITT), an Invitation to Negotiate (ITN), an Invitation to Participate in a Dialogue (ITPD), a Request for Proposal (RFP), a Request for Quotation (RFQ) an electronic Auction and/or any other procurement exercise determined by the Buyer from time to time.

1.3. This User Agreement applies to the Supplier and each Supplier User. The Supplier acknowledges that by a Supplier User accessing the System using the previously notified User ID and Password for that Supplier, the Supplier and each of its Supplier Users agree to be bound by the terms of this User Agreement.

1.4. The Supplier and each Supplier User shall only use the System to respond to an invitation by the Buyer to participate in a procurement exercise in accordance with the terms of this User Agreement, as supplemented by any further rules, guidelines and/or instructions given by the System and/or the Buyer (“Instructions”). In the event that there is any inconsistency and/or conflict between the terms of this User Agreement and any Instruction, the Instruction shall take precedence.

1.5 All references in this User agreement to the Office Journal of the European Union, EU or UK procurement rules and other provisions solely binding on public authorities shall not apply to the Buyer where the Buyer is LOCOG.

1.6 Clauses 13.3.2.2 and 13.6 shall not apply to the Buyer where the Buyer is LOCOG.

2. Access

2.1. In consideration of agreeing to be bound by the terms of this User Agreement, the Buyer grants to the Supplier, free of charge, access to the System to enable the Supplier Users to respond to any invitation to participate in a procurement exercise.

2.2. The Buyer may immediately prevent the Supplier and/or one or more Supplier Users from accessing the System by giving written notice to the Supplier upon the occurrence of any of the following events:

2.2.1. The Supplier and/or a Supplier User commits a material breach of any of the Supplier’s obligations under this User Agreement;

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2.2.2. The Supplier and/or a Supplier User fails to remedy, or fails to prevent the continued occurrence of, any remediable breach of any of the Supplier’s obligations under this User Agreement after having been given written notification to remedy or prevent such breach within a period of ten (10) Working Days from issue of the Buyer’s notice.

2.3. Without prejudice to any of the Buyer's other rights in this User Agreement, the Buyer reserves the right to suspend access to the System for any Supplier and/or Supplier Users without notice for technical, commercial and/or legal reasons.

3. Registration

3.1. Before the Supplier is granted access to the System, the Supplier must apply to be registered onto the System. The Supplier will need to register details about itself and each person which the Supplier wishes to be a Supplier User by providing the required registration data to the System and the Helpdesk (if appropriate). Such details will include specifying a User ID and Password. The Supplier may only designate as potential Supplier Users employees, officers and/or agents of the Supplier.

3.2 Access to the System for each Supplier and each Supplier User will be determined by the Helpdesk following verification of the details provided. The Buyer retains the right to refuse access to any person, firm or organisation at its absolute discretion.

3.3. Each User ID and Password is strictly personal to the relevant Supplier User and each Supplier User shall not transfer, disclose or communicate details of its User ID and Password to any third party. The Supplier agrees to ensure that its Supplier Users do not divulge, disclose or communicate their respective User ID and Password to third parties. In the event that the Supplier or a Supplier User becomes aware that a User ID and Password may have been divulged, disclosed or discovered by a third party, the Supplier shall immediately notify the Helpdesk.

3.4. Each Supplier is permitted to have a reasonable number of Supplier Users. When providing registration details in accordance with Clause 3.1 above, the Supplier shall designate an individual Supplier User who shall manage, monitor and review access to the System by the other Supplier Users.

3.5. The Supplier must immediately inform the Helpdesk in the event that a Supplier User either (i) leaves the employment of the Supplier; (ii) is no longer solely working for the Supplier and/or (iii) no longer requires access to the System.

3.6 The Buyer retains the right to deactivate a User ID and Password if that User ID and Password have not been used to access the System for a continuous period of sixty (60) days.

4. Invitations

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4.1. Following the publication of a notice in the Official Journal of the European Union (if relevant), the System shall notify Suppliers of opportunities to participate in specific procurement exercises, provided the exercise is of a type in relation to which the Supplier has expressed an interest.

4.2. The Buyer intends to use the System for the whole duration of a procurement exercise. All material published by the Buyer on the System shall remain the property of the Buyer and shall be used only for the purpose of the relevant procurement exercise.

5. Supplier's Obligations

5.1. The Supplier shall ensure that all its Supplier Users comply with the terms of this User Agreement.

5.2. The Supplier and each Supplier User shall use all reasonable care and skill in performing their respective obligations under this User Agreement.

5.3. The Supplier shall be solely responsible for the provision of equipment and software required by Supplier Users to access and use the System.

5.4. The Supplier shall take and shall continue to take all steps, in accordance with good industry practice, to prevent the introduction, creation and/or propagation of any disruptive element (including any virus, worm and/or trojan horse) onto the System and into data, software and/or information owned by, or under the control of, or produced on behalf of the Supplier. The Supplier shall take all measures, in accordance with good industry practice, to avoid any and all loss of data and data corruption when using the System.

5.5. The Supplier shall use the System for lawful and proper purposes only and shall comply with all applicable law, enactments, orders, regulations, codes of practice, guidance and other similar instruments within the UK and/or other relevant jurisdiction.

5.6. The Supplier agrees that it will not:

5.6.1 manipulate any information published on the System so that it could lead to such information being construed as inaccurate, misleading or potentially discriminatory;

5.6.2 post, transmit or disseminate any information on or through the System which is or may become harmful, obscene, defamatory or illegal;

5.6.3 use the System in a manner which causes or may cause an infringement of the rights of any other party; and

5.6.4 use any software, routine or device to interfere or attempt to interfere electronically or manually with the operation or functionality of the System, including uploading or making available files containing corrupt data or viruses through whatever means.

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5.7. The Supplier agrees that its Supplier Users shall act as authorised agents for and on behalf of the Supplier in submitting any Submission.

5.8. The Supplier shall be responsible for any unauthorised, false or fraudulent material that is submitted by or on behalf of the Supplier.

5.9. The Supplier represents and warrants that:

5.9.1. all information, representations and other statements of any nature whatsoever sent to the System are true and accurate in all material respects and are not misleading in any material respect whether by omission or otherwise

5.9.2. the Supplier has full capacity and authority and all necessary licences, permits and/or consents to enter into and perform its obligations under this User Agreement and the Supplier and its Supplier Users have the proper skill, training and background to enable them to discharge their obligations under this User Agreement in a professional manner compatible with the Buyer’s business operations;

5.9.3. it shall have the right, through actual ownership or otherwise, to provide any product or service that is the subject of any Submission:

5.9.4. it has the ability to provide the product, service, works and/or utilities at the prices offered and on the terms in any Submission in accordance with the relevant criteria specified by the Buyer in the relevant invitation to participate in the procurement exercise.

5.10. The Supplier and each Supplier User agree to be bound by the Buyer’s Security of Information Policies, copies of which can be found at www.london2012.com

6. General Provisions Governing Submissions

6.1. Suppliers are expected to examine all information and material (including attachments to files) published on the System, since such information will comprise the instructions to Suppliers for responding to opportunities. Suppliers must provide all information requested by the System for the relevant procurement exercise. Incomplete or corrupt Submissions or any part thereof (as determined by the System) shall entitle the Buyer to invalidate or reject the Submission.

6.2. All Submissions must be submitted to the System by the relevant closing date and time specified on the System.

6.3. Submissions may be revised and/or updated at any time up to the relevant closing date and time as specified on the System. The last Submission immediately prior to the closing date and time shall constitute the Supplier’s final Submission for consideration by the Buyer.

6.5. The Supplier agrees to keep a Submission valid for a period of ninety (90) Working Days commencing on the closing date and time for the relevant procurement exercise, unless expressly stated otherwise.

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6.6. Submissions will be opened, considered and evaluated by the Buyer in accordance with the procedures specified on the System for each procurement exercise.

7. Specific Provisions for Electronic Auctions (Auction)

7.1. If the Buyer decides to operate an Auction through the System, the Supplier acknowledges and accepts that any Submission received from the Supplier in earlier stages of the procurement exercise may, subject to (i) the Buyer’s decision, (ii) compliance with the EU and UK procurement rules and (iii) following a notification to all Suppliers participating in the procurement exercise to date, represent the initial bid by each Supplier in the Auction.

7.2. The Buyer is entitled in its absolute discretion to set an opening price and a reserve price for an Auction.

7.3. The Buyer shall determine the closing time for each Auction. The instructions and configuration settings for an Auction will be published on the System for Suppliers to view prior to the Auction.

7.4. All bids during an Auction are irrevocable except to the limited extent provided for in this Clause. Bids may only be revoked by the Supplier if (i) the Supplier immediately notifies the Buyer after the bid has been submitted to the System that it has made an erroneous Submission which it wishes to revoke and (ii) if, in the absolute discretion of the Buyer, the Buyer accepts such revocation. If the Buyer does not accept the revocation in the limited circumstances set out in this Clause 7.4, the bid is binding on the Supplier.

7.5. The Buyer is not obliged to accept the lowest bid or any bid made during an Auction. If the Buyer decides to accept a bid, in accordance with the published evaluation criteria, the Buyer shall notify the Supplier in writing that its bid has been accepted. Such notice shall constitute the unqualified acceptance by the Buyer of the Supplier’s offer on the Buyer’s terms and conditions of contract as specified in the Auction.

8. Amendments to a procurement exercise

8.1. The Supplier acknowledges that:

8.1.1 the Buyer reserves the right to (without incurring any liability whatsoever):

8.1.1.1 suspend, re-open and/or cancel a procurement exercise;

8.1.1.2 extend the closing date and/or time for a procurement exercise; and/or

8.1.1.2 vary or amend the details of a procurement exercise,

at any time prior to the closing date and time for receipt of Submissions by notification on the System; and

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8.1.2 in the event of a suspension and subsequent re-opening of a procurement exercise, the procurement exercise will resume on the basis of the last Submission recorded by the Supplier on the System for the relevant procurement exercise.

9. Notification of Award or Conclusion

9.1. Once the Buyer has decided whether to (i) award a contract for all of the Buyer’s requirements, (ii) award a contract for some of the Buyer’s requirements, (iii) suspend the procurement process or (iv) not to award a contract, the Buyer shall give written notification of its decision to Suppliers in accordance with the terms of Clause 17 of this User Agreement.

10. Intellectual Property Rights

10.1. All Intellectual Property Rights in (i) the System and (ii) any information published on the System by the Buyer are owned by, or are under licence to, the Buyer.

10.2. The Supplier and its Supplier Users shall have no:

10.2.1 Intellectual Property Rights in the System, nor any information published on the System by, or on behalf of, the Buyer;

10.2.2 right to copy, adapt, use, modify and/or interfere with the System and/or any information published on the System by, or on behalf of, the Buyer; and

10.2.3 right to represent, whether by publishing or issuing any statement that any product, service, works or utility provided by the Supplier has been endorsed or approved by the Buyer or that the Supplier or any of the Supplier’s products, services, works or utilities is or are in any way associated with the Buyer.

10.3. The Buyer may decide to publish its logo and/or trade mark and/or any other Intellectual Property Right on the System. The Supplier acknowledges that it may not copy, use, modify or mask the Buyer's logo and/or trade marks or any other Intellectual Property Right which appear on the System without the prior written consent of the Buyer.

11. Data Protection

11.1. In relation to the processing of Personal Data, the Supplier shall

11.1.1 at all times comply with the terms of the Data Protection Act 1998 and all applicable regulations, codes of conduct and guidance; and

11.1.2 not do or cause or permit to be done anything which may cause or otherwise result in a breach by the Supplier or the Buyer of the Data Protection Act 1998.

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11.2. BravoSolution UK Ltd, on behalf of the Buyer, will collect, hold and use all Personal Data obtained from and about the Supplier Users pursuant to this User Agreement and the Supplier agrees to such Personal Data being collected, held and used in accordance with the terms of this User Agreement.

12. Limitation of Liability

12.1. Neither the Buyer nor the Supplier exclude or limit their respective liability to the other for death or personal injury or any breach of any obligations implied by Section 12 of the Sale of Goods Act 1979 or Section 2 of the Supply of Goods and Services Act 1982 or for fraud or fraudulent misrepresentation.

12.2. In no event shall the Buyer be liable to the Supplier or any Supplier User for any direct loss, indirect loss or damages incurred by the Supplier arising from the use of the System caused by:

12.2.1. an event of Force Majeure that affects the availability and/or performance of the System;

12.2.2. use by the Supplier and/or Supplier Users of the System in contravention of the terms of this User Agreement;

12.2.3. the inadequacy, malfunction and/or lack of connectivity to the System arising from the equipment, hardware and/or software used by the Supplier and/or its Supplier Users;

12.2.4. breakdown of the System for a period of time not exceeding 30 Working Days; or

12.2.5 suspension of the System.

12.3. The Supplier acknowledges and accepts that:

12.3.1. the Buyer reserves the right to interrupt and/or suspend the availability of the System and/or revoke access at any time by written notice to the Supplier without incurring any liability;

12.3.2. the Buyer provides the System on an ‘as is’ basis and ‘as available’ basis without any warranty of any kind; and

12.3.3. the Buyer does not accept any liability for any information or links on the System that may refer Supplier Users to external sources outside of the Buyer’s control.

12.4. The Supplier shall be responsible for and shall release and indemnify the Buyer on demand from and against all claims, demands, actions, losses, charges, professional advisors fees, legal fees and any other liability whatsoever brought by a third party against the Buyer and, arising out of or in consequence of the breach by the Supplier and/or any Supplier User of their respective obligations under this User Agreement.

13. Confidentiality

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13.1. The Supplier and each Supplier User agree that it will not, directly or indirectly whether through any person, firm or organisation or in any form:

13.1.1. disclose any Confidential Information to any third party without the prior written consent of the Buyer, except to such persons and to such extent as may be necessary for the performance of the Supplier’s obligations under this User Agreement:

13.1.2. use any Confidential Information otherwise than for the purposes of this User Agreement.

13.1.3. make any statement to or communicate with the media or press in respect of the Confidential Information or publish in any way the Confidential Information;

and each Supplier and Supplier User agree to:

13.1.4. safeguard all Confidential Information and ensure no Confidential Information which is Personal Data is processed in breach of the Data Protection Act 1998;

13.1.5. take precautions in accordance with good industry practice to ensure that all Confidential Information is only given those employees, consultants, subcontractors, professional advisors and/or agents engaged to advise the Supplier who necessarily require access in accordance with the terms of this User Agreement; and

13.1.6. inform each person to whom Confidential Information is disclosed of the restrictions contained in this User Agreement as to use and disclosure of such Confidential Information and to ensure that each such person observe the terms of this Clause 13.

13.2. The provisions of this Clause 13 shall not apply to any information:

13.2.1. which is or becomes public knowledge otherwise than by breach of the obligations under this User Agreement;

13.2.2. which is in the possession of the Supplier or Supplier User, without restriction as to its disclosure, before receiving it from the Buyer;

13.2.3. which is received from a third party who lawfully acquired it and who is under no obligation restricting its disclosure; and/or

13.2.4. is independently developed without access to the Confidential Information.

13.3. Nothing in this User Agreement shall prevent the Supplier from:

13.3.1. disclosing any Confidential Information which is required to be disclosed by an order of court or other tribunal or required to be disclosed in accordance with any law, statute, proclamation, by-law, directive, decision, regulation, rule, order, notice, rule of court, delegated or subordinate legislation parliamentary obligation; or

13.3.2. disclosing any information for the purpose of:

13.3.2.1. the examination and certification of the Buyer’s accounts; or

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13.3.2.2. any examination pursuant to Section 6(1) of the National Audit Act 1983 of the economy, efficiency and effectiveness with which the Buyer has used its resources;

provided that in disclosing information under this Clause 13.3 the Supplier discloses only the information which is necessary for the purpose concerned and requires that the information is treated in confidence and that a confidentiality undertaking is given where deemed appropriate by the Buyer.

13.4. Nothing in this User Agreement shall prevent the Supplier from using any techniques, ideas or know-how gained during the performance of this User Agreement in the course of its normal business, to the extent that this does not result in a disclosure of Confidential Information or an infringement of Intellectual Property Rights.

13.5. In the event that the Supplier or a Supplier User fails to comply with this Clause 13, the Buyer reserves the right to terminate this User Agreement by written notice with immediate effect.

13.6. Without prejudice to the generality of Clause 13.5.1, the Supplier acknowledges that the Buyer is subject to the requirements of the Freedom of Information Act 2000 (“FOIA”) and the Environmental Information Regulations 2004 (“EIR”), that the description of Confidential Information in this User Agreement is of indicative value only and that the Buyer may nevertheless be obliged under FOIA or EIR to disclose information relevant to the Supplier’s participation in a procurement exercise, or relevant to the User Agreement, including Confidential Information. The Supplier agrees to provide all necessary assistance as reasonably requested by the Buyer in connection with any information to enable the Buyer to satisfy its obligations in response to any request for information under FOIA or EIR.

13.7. The obligations of this Clause 13 shall remain beyond the termination of this User Agreement.

13A No Marketing Rights

13A.1 The Supplier acknowledges and agrees that it shall not:

(i) use any trade marks, trade names, logos or other intellectual property of the London Organising Committee of the Olympic Games Limited (“LOCOG”), the Olympic Delivery Authority or of any other official Olympic or Paralympic body (the “Games Bodies”) (including marks and representations protected by the Olympic Symbol etc. (Protection) Act 1995, and the London Olympic Games and Paralympic Games Act 2006) (together the “Protected Marks”) or to use any trade marks, trade names or logos so resembling the Protected Marks as to be likely to cause confusion with the Protected Marks;

(ii) represent, directly or indirectly, that the Supplier, its products or services are in any way associated with the Games, or any Games Body, or that any product or service provided has been endorsed or approved by them, including by publishing or issuing any statement (factual or otherwise) about the Games or the Supplier’s provision of products or services to a Games Body;

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(iii) undertake any form of ambush marketing, which shall include any activity, whether commercial or non-commercial, that creates, implies or refers to a direct or indirect association of any kind (including an association in the minds of members of the public) with the Games or any Games Body, and includes the display or distribution of advertising materials or products with the intention of gaining exposure for any brand in or within the vicinity of venues at which the Games are taking place, unless such activity has been authorised by a Games Body which is entitled to give such authorisation;

(iv) cause to be done, or permit anyone reasonably within the Supplier's control to do, anything which might damage or endanger the validity or distinctiveness of, or the goodwill in, the Protected Marks or other intellectual property rights of any Games Body; or

(v) do anything which would have an adverse effect on or embarrass any Games Body, or any official supporter or sponsor of the Games

and the Supplier agrees:

(vi) to ensure anything done pursuant to this User Agreement and which may result in the Supplier and/or its materials being visible in venues at which the Games are taking place are free of all branding unless otherwise agreed by LOCOG; and

(vii) to take reasonable steps to ensure that any of its contractors or agents shall also abide by the provisions of this clause.

13A.2 LOCOG (and after the dissolution of LOCOG, an appropriate Games Body) shall have the right to enforce the terms of this clause 13A in accordance with the Contracts (Rights of Third Parties) Act 1999, and the Supplier acknowledges the provisions therein are of such importance to LOCOG that damages may not be an adequate remedy for breach of clause 13A.1 by the Supplier and that injunctive relief may be a more appropriate remedy.

13B Publicity

13B The Supplier and each Supplier User shall not undertake (or permit to be undertaken) at any time any publicity or activity with any section of the media (including, but not limited to, making any announcements) in relation to this User Agreement or any activity connected therewith other than with the prior written consent of the Buyer. In this paragraph the word "media" includes (but is not limited to) radio, television, newspapers, trade and specialist press, the internet and email accessible by the public at large and the representatives of such media.

13C Conflicts of Interest

Suppliers and each Supplier User are responsible for ensuring that there are no conflicts of interest either between their own advisers and those of the Buyer, or between their sub-contractors.

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Suppliers and each Supplier User agree to notify the Buyer of any conflict of interest as soon as reasonably practicable once they become aware of such a conflict and to comply with any reasonable instruction given by the Buyer in relation to the manner in which such notified conflict is managed.

14. Rights of Third Parties

14.1. Save for Clause 13A this User Agreement shall not create any rights that shall be enforceable by anyone other than the Buyer and the Supplier, except that the rights specified in Clause 11.2 (Data Protection) may be enforced by BravoSolution UK Ltd.

15. Variations to this User Agreement

15.1. Subject to Clauses 15.2 and 15.3 below, the Supplier acknowledges that the Buyer reserves the right to vary or amend this User Agreement at any time by giving written notification, whether through publication of a notice or message on the System or through an email or letter to the Supplier, using the email address or postal address referred to in Clauses 17.1 and 17.1.3 respectively.

15.2. The variations shall be deemed to have been accepted by the Supplier unless the Helpdesk receives, within 15 days of the date of the notice under Clause 15.1, a written communication from the Supplier rejecting to accept such variations, together with a detailed explanation of the reasons for its rejection. The Buyer may in its absolute discretion decide whether or not to accept the Supplier's rejection but in any event the Supplier's continued use of the System shall represent the Supplier's unconditional acceptance of any variation.

15.3. The Supplier shall be entitled to terminate this User Agreement with immediate effect in the event that it has given a notice rejecting a variation made by the Buyer in accordance with the terms of this Clause 15.

16. General

16.1. The waiver by either party of any breach of this User Agreement shall not prevent the subsequent enforcement of that provision and shall not be deemed to be a waiver of any subsequent breach of that or any other provision.

16.2. If at any time any part of this User Agreement is held to be or becomes void or otherwise unenforceable for any reason under any applicable law, the same shall be deemed omitted from this User Agreement and the validity and/or enforceability of the remaining provisions of this User Agreement shall not in any way be affected or impaired as a result of that omission.

16.3. Except where expressly provided in this User Agreement, this User Agreement constitutes the entire agreement between the parties in connection with the System and supersedes all prior representations, communications, negotiations and understandings relating to the System.

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16.4. The Buyer shall not be committed to any course of action as a result of:

16.4.1. issuing any invitation to participate in a procurement exercise;

16.4.2. an invitation to submit any proposal in respect of a procurement exercise;

16.4.3. communicating with a Supplier in respect of a procurement exercise; or

16.4.4. any other communication between the Buyer and any other party.

16.5. The Supplier accepts and acknowledges that:

16.5.1. whilst every care has been taken to ensure that the data and information contained within all information published on the System is valid and accurate, the Buyer shall not accept any liability for the inaccuracy, inadequacy or incompleteness of such information and data; and

16.5.2. by issuing an invitation to participate in a procurement exercise the Buyer shall not be bound to accept any Submission;

16.5.3. the Buyer shall not be under an obligation to award a contract for all the Buyer's requirements, some of the Buyer's requirements or not to award a contract at all; and

16.5.4. the Buyer shall not accept any liability for any costs or expenses incurred by a Supplier in making any Submission.

16.6. The Supplier acknowledges that the System will not allow the Supplier or any of the Supplier's Users to view the identity of other Suppliers during a procurement exercise.

17. Notices

17.1. All communications given under this User Agreement shall be in writing and shall be:

17.1.1. served to the Supplier using electronic-mail, to the e-mail address the Supplier has given upon registration in accordance with Clause 3 of this User Agreement or through the messaging facility available on the System; or

17.1.2. served to the Buyer, using electronic-mail to help.etenders@london2012.com or through the messaging facility available on the System; and

17.1.3. deemed to be received by the addressee on the same day as the addressor sending such e-mail, subject to the:

17.1.3.1 addressor using the addressee's correct e-mail address; and

17.1.3.2 addressee, on receipt of such an e-mail, e-mailing an acknowledgement of receipt to the addressor as soon as is practicable and in any event not later than 17:00 of the following Working Day after the addressee received such e-mail. If the addressor fails to receive such

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acknowledgement by 17:00 of the next Working Day after the addressee received the e-mail, the addressor may also serve the communication by first class registered post to:

17.1.3.2.1 the Supplier, to the postal address the Supplier has given upon registration; or

17.1.3.2.2 where the Buyer is:

(a) the Olympic Delivery Authority such notice shall be addressed to the Olympic Delivery Authority at One Churchill Place, Canary Wharf, London E14 5LN;

(b) LOCOG such notice shall be addressed to The London Organising Committee of the Olympic Games and Paralympic Games at One Churchill Place, Canary Wharf, London E14 5LN; or

(c) such organisation responsible for the procurement of goods, services, utilities and/or works and inviting Suppliers to respond to any invitation to participate in the relevant procurement exercise such address shall be to the addressee and their address stated on the messaging facility available on the System,

or such other address as has been notified to the Supplier by the relevant Buyer on the System in writing and shall be deemed to be received by the addressee two Working Days after posting.

18. Law and Jurisdiction

18.1. This User Agreement and any dispute or claim arising out of or in connection with it shall be governed by, and construed in accordance with, the laws of England and Wales and shall be subject to the non-exclusive jurisdiction of the Courts of England and Wales to which the parties irrevocably submit.

19. Interpretation and Definitions

19.1. The headings to clauses are inserted for convenience only and shall not affect the interpretation or construction of the terms of this User Agreement.

19.2. Words imparting the singular shall include the plural and vice versa. Words imparting a gender include every gender and references to persons include an individual, company, corporation, firm or partnership.

19.3. The words and phrases "other", "including" and "in particular" shall not limit the generality of any preceding words or be construed as being limited to the same class as any preceding words where a wider construction is possible.

19.4. References to any statute or statutory provision shall include (i) any subordinate legislation made under it, (ii) any provision which it has modified or re-enacted (whether with or without

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modification), and (iii) any provision which subsequently supersedes it or re-enacts it (whether with or without modification).

19.5. All references in this User Agreement to Clauses are to the clauses to this User Agreement unless otherwise stated.

19.6 A reference to a person includes firms, partnerships and corporations and their successors.

19.6 The following capitalised terms used in this User Agreement shall have the meanings set out below:

“Auction” means a type of procurement exercise conducted on the System where Suppliers are invited to submit bids simultaneously.

“Buyer” means:

(a) the Olympic Delivery Authority;

(b) LOCOG; or

(c) such organisation responsible for the procurement of goods, services, supplies, utilities and/or works and inviting Suppliers to respond to any invitation to participate in the relevant procurement exercise,

(as the case may be) and the definition of “Buyer” in this User Agreement shall be construed accordingly.

“Confidential Information” means information that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) and may include information whose disclosure would or would be likely to prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights and know how of either party and all Personal Data;

“Confidentiality Agreement” the agreement to be entered into between (i) the Buyer and (ii) the Supplier pursuant to which the Supplier agrees to keep all information obtained by the Supplier in connection with the Games Confidential in accordance with the terms of the Confidentiality Agreement

“Force Majeure” means any cause affecting the performance by either the Buyer or BravoSolution UK Ltd of their respective obligations under this User Agreement or otherwise arising from acts, events or omissions beyond its or their reasonable control including, but without limiting the generality of the foregoing, governmental regulations, fire, flood, or any disaster or an industrial dispute affecting a third party for which a substitute third party is not reasonably available. Any such act, event or omission will only be considered to be an event of Force Majeure if it is not attributable to the wilful act, neglect or failure to take reasonable precautions of the affected party, its agents or employees or the failure of either the Buyer or BravoSolution UK Ltd to perform their respective obligations under this User Agreement or otherwise.

“Helpdesk” means the facility provided by BravoSolution UK Ltd to handle support queries and issues raised by Supplier Users.

LONDON 2012 E-TENDERING SERVICE USER AGREEMENT (“User Agreement”)

“LOCOG” means the London Organising Committee of the Olympic Games and Paralympic Games Limited (Company No. 05267219) whose registered office is at One Churchill Place, Canary Wharf, London E14 5LN.

“Instructions” has the meaning given to such term in Clause 1.4 of this User Agreement

“Intellectual Property Rights” means any patent, copyright, database right, moral right, design right (whether registered or unregistered), trade mark, service mark, domain name, know-how, utility model, unregistered design or, where relevant, any application for any such right, or other industrial or intellectual property right.

“Olympic Delivery Authority” means a statutory corporation set up under the London Olympic Games and Paralympic Games Act 2006 with its principal place of business at One Churchill Place, Canary Wharf, London E14 5LN.

“Personal Data” has the meaning given to such term in the Data Protection Act 1998;

“Submissions” any and all information submitted by, or on behalf of, the Supplier to the Buyer using the System in response to an invitation from the Buyer to participate in a procurement exercise. For the avoidance of doubt there may be any number of Submissions made by the Supplier throughout a procurement exercise and written clarification requests made by the Supplier using the System shall constitute a Submission

“Supplier” means a person, firm, organisation or other corporate or statutory entity that has indicated its acceptance to be bound by the terms of this User Agreement.

“Supplier User” means an individual who on behalf of a Supplier has registered and been provided with access to the System.

“System” means the eSourcing procurement system provided by BravoSolution UK Ltd to the Olympic Delivery Authority enabling Suppliers to participate in procurement exercises.

“User ID and Password” a unique identification code and password for each Supplier User, approved by the System, enabling the relevant Supplier User to use the System;

“User Agreement” these terms and conditions for using the London 2012 e-Tendering Service

“Working Days” a day (other than a Saturday or Sunday) on which domestic banks are open for business in the city of London