

SPONSORSHIP AGREEMENT

between

TRACKER NETWORK (UK) LIMITED

and

ACPO VEHICLE CRIME INTELLIGENCE SERVICE

THIS IS AN IMPORTANT DOCUMENT WHICH CONFERS LEGAL RIGHTS AND OBLIGATIONS ON THE PARTIES TO IT. YOU SHOULD TAKE INDEPENDENT LEGAL ADVICE BEFORE SIGNING THIS DOCUMENT AND SIGN ONLY IF YOU WANT TO BE LEGALLY BOUND BY ITS TERMS.

THIS SPONSORSHIP AGREEMENT is made on

2009

between

TRACKER NETWORK (UK) LIMITED, a company incorporated in England and Wales (Company number 02632771) and having its registered office at Otter House, Cowley Business Park, High Street, Cowley, Uxbridge, Middlesex, UBB 2AD ("**TRACKER**");

and

ACPO VEHICLE CRIME INTELLIGENCE SERVICE, a national policing unit and having its office at NPIA Ryton, 1 Leamington Road, Ryton-on-Dunsmore, CVB 3EN (the "**Supplier**").

BACKGROUND

The Supplier has agreed to provide the Services (as defined below) to TRACKER for the Project on the terms and conditions set out in this Agreement.

The terms of this Agreement are:

1 DEFINITIONS AND INTERPRETATION

- 1.1 The expressions which follow are given these meanings unless the context in which they are used requires a different meaning:

"Agreement" means this agreement together with the Schedules, as may be amended from time to time;

"Business Day" means a day on which RBS is open for business in Edinburgh or London other than when it is only open for 24 hour electronic banking;

"Change of Control" means that there has been a direct or indirect change of ownership of the Supplier resulting overall in more than 50% of the total voting rights conferred by all shares in the Supplier being held directly or indirectly by a person who did not hold 50% of the voting rights as at the date on which this Agreement was signed by TRACKER;

"Clause" means a clause of this Agreement;

"Commencement Date" means 1 February 2010];

"Confidential Information" means information that is designated as "confidential" or which by its nature is clearly confidential. Confidential information includes (without limitation) any information concerning the technology, technical processes, business processes, procedures, personal data, business affairs, financial affairs and finance of TRACKER, its customers, employees and suppliers. TRACKER'S security procedures and the layout of TRACKER's premises are also included within the definition of Confidential information. Confidential information may take the form of:

- (a) Documents, technical specifications, unpublished patent specifications, data, drawings, plans, processes, photographs, databases, computer software in disk, cassette, tape or electronic form and data storage or memory in, and items of, computer hardware; or
- (b) Oral descriptions, demonstrations or observations:

Confidential Information includes (without limitation) information which is in transit to/from, supplied to, stored by, processed or marked for destruction by the Supplier:

"Data Controller" has the meaning given to that term in the Data Protection Act 1998;

"Force Majeure Event" means any cause affecting the performance by a party of its obligations under this Agreement arising from acts, events or omissions beyond its reasonable control, but excluding, in the case of the Supplier, Staff or material shortage or any industrial dispute relating to the Supplier, the Staff or its sub- contactors or any other delay or failure in the Supplier's supply chain;

"FSA" means the Financial Services Authority or any Regulator that replaces it;

"Good Environmental Practice" means complying with all environmental standards imposed by any applicable laws;

"Good Industry Practice" means that the Services will be performed with the standard of skill, care, knowledge, reliability, professionalism and foresight which would reasonably be expected from an experienced person engaged in providing the Services;

"Information Security Plan" means the information security plan prepared by the Supplier which will ensure the confidentiality and security of the Confidential Information;

"Intellectual Property Rights" means any patents, trademarks, rights in designs, get-up, trade, business or domain names, copyrights including rights in computer software and databases (including database rights) and topography rights (in each case whether registered or not and, where these rights can be registered, any applications to register or rights to apply for registration of any of them). and where applicable any goodwill therein, rights in inventions, know-how, trade secrets and other confidential information, or any other intellectual property rights which may exist at any time in any part of the world:

"Loss" means the loss suffered by a member of the RBS Group as defined in Clause 17.2:

"Materials" means all goods, records, reports, documents, papers, other materials and deliverables (whether in documentary, electronic or other form) produced by or on behalf of the Supplier for TRACKER as part of the Services including such Materials as are described in Schedule 1*

"Personal Data" and **"Processing"** have the meanings given to them in the Data Protection Act 1998. and "Process" will be construed accordingly:

****S31(1)** and S43(2)****

****S31(1)** and S43(2)****

****S31(1)** and S43(2)****

****S31(1)** and S43(2)****

****S31(1)** and S43(2)****

any regulator or regulatory body (including the FSA, if applicable) to which TRACKER is subject from time to time or whose consent, approval or authority is required so that TRACKER can lawfully carry on its business;

"Schedules" means the Schedules attached to and forming part of this Agreement and **"Schedule"** means any of them;

"Services" means the services to be provided by the Supplier under this Agreement. The Services includes those described in Schedule 1 and the production of the Materials and such other services as may be agreed by the parties or as may be required by a Regulator;

"Service Levels" means the required timescales, levels and standards of service (if any) as set out in Schedule 1;

"Specification" means the specification for the Materials (if any) set out in Schedule 1;

"Sponsorship" means the sponsorship fee in Schedule 1 and which TRACKER is to pay for the Services;

"Staff" means those persons employed or engaged by the Supplier from time to time to provide the Services. The definition of "Staff" will also include the staff of any sub-contractor appointed under this Agreement who are providing the Services from time to time;

"Substantial Disposal" means a sale or other disposal of the whole or a substantial part of the business or assets of the Supplier;

"Systems and/or Data" means any systems which are used by TRACKER to store or process any information relating to any RBS Group customers, suppliers, business associates, employees, businesses and any person from time to time to whom any member of the RBS Group provides a service, and any other confidential information, and any data of RBS Group (or its third party licensors or associated companies), whether held electronically, on paper or in any other form;

"the RBS Group" means:

- (a) The Royal Bank of Scotland plc;
- (b) any company that is from time to time (i) a holding company, (ii) a subsidiary or (iii) a subsidiary of a holding company, of The Royal Bank of Scotland plc;

For the purposes of the definition of the RBS Group the expressions "holding company" and "subsidiary" have the meanings given to them in the Companies Act 1985. In this Agreement companies within the RBS Group are called "members" of the RBS Group;

"TRACKER Property" means all items of property (including equipment) issued to the Supplier by or on behalf of TRACKER for the purpose of carrying out the Services;

"Vehicles" means, without limitation, any road using vehicles or otherwise and includes vehicles under a lease, hire or any other ownership arrangement;

"2006 Regulations" means the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended) or any regulations which replace or amend these.

1.2 Unless the context requires a different interpretation, the following rules shall be used to interpret this Agreement:

1.2.1 any reference to a provision of a statute includes references to: (a) that provision as amended, extended or applied by any other provision regardless of whether the other provision became law before or after this Agreement (b) any re-enactment of that

provision (with or without change); and (c) any regulation, order, code of practice or similar thing having the force of law made (before or after this Agreement) under that provision or any provision falling within (a) or (b) above;

1.2.2 words used in the singular tense should be interpreted to include the plural tense and vice versa. Words which refer to one gender should be interpreted to include other genders;

1.2.3 any use of the word "including" will not be limited by the words that follow; and

1.2.4 the headings in this Agreement do not affect its interpretation.

1.3 In the event of any conflict or inconsistency between them, the terms of the main body of this Agreement will prevail over the terms of the Schedules, and the relevant provisions of the Schedules should be construed accordingly.

2 THE SERVICES

2.1 During the term of this Agreement, the Supplier will provide the Services in accordance with this Agreement and the Service Levels to facilitate the Project.

2.2 The Supplier undertakes to TRACKER that the Services will be regulated by the Police Act 1989 and performed in accordance with (a) Good Industry Practice and Good Environmental Practice; (b) all laws, regulatory requirements, regulations, bye-laws, codes of practice, British Standards and EU or international standards from time to time applicable to the performance of the Services; (c) all policies and working procedures of TRACKER made known by TRACKER to the Supplier or the Staff (including the RBS Group Ethical Code for Suppliers set out at www.rbs.com/crpolicies); and (d) all lawful and reasonable directions, instructions and **requests from TRACKER**.

2.3 The Supplier shall provide TRACKER with any appropriate and legal information which TRACKER may reasonably request from time to time in relation to the supply of the Services. Such information shall not be capable of being used for the furtherance of crime.

2.4 To avoid doubt, nothing in this Agreement obliges TRACKER to receive or use any of the Services to the exclusion of any similar services.

2.5 The Supplier will advise TRACKER immediately in writing on becoming aware: (i) that it may be unable to perform the Services in accordance with this Agreement; or (ii) of any development that may have a material impact on its ability to perform the Services in accordance with this Agreement.

3 SPONSORSHIP

3.1 In consideration of the performance of the Services by the Supplier, TRACKER shall pay to the Supplier the Sponsorship on the terms of this Clause 3.

3.2 Any sums of money owing to the Supplier under this Agreement will be paid by the RBS Group member receiving the Services. All invoices for supplies made under this Agreement should **be addressed** to the RBS Group member to whom the Services are supplied and sent in accordance with the instructions contained in Schedule 1.

3.3 The Sponsorship is inclusive of all expenses incurred by the Supplier, its Staff and its sub-contractors in the provision of the Services and is exclusive of value added tax which shall be paid provided that a valid value added tax invoice has been received by the member of the RBS Group to which the invoice is addressed pursuant to Clause 3.2

- 3.4 The Sponsorship is fixed for the term of this Agreement.
- 3.5 Payment of any sums due under this Agreement shall be made to the Supplier within thirty (30) days of receipt of a valid invoice raised in accordance with this Agreement. The Supplier will not issue an invoice before the due date for its payment and will quote the purchase order number (s) allocated by TRACKER for this Agreement on all invoices. If any payment to the Supplier is delayed other than where Clause 3.6 applies, then (a) the Supplier should tell TRACKER in writing, providing a copy of the relevant invoice; and (b) if TRACKER fails to pay the undisputed invoice or part thereof within ten (10) Business Days of receiving the Supplier's written notice then the Supplier will be entitled to charge default interest at a rate equal to three (3) per cent per annum above the published Royal Bank of Scotland base rate from time to time.
- 3.6 TRACKER will have the right to retain any payments under this Agreement that would otherwise be due to the Supplier where it disputes, in good faith, that the Supplier has properly performed its obligations under this Agreement.
- 3.7 Payment by TRACKER will not affect any claims or rights which TRACKER may have against the Supplier. Payment will not amount to any admission by TRACKER that the Supplier has satisfactorily performed its obligations under this Agreement.

4 TITLE AND RISK

- 4.1 Title to any Materials which are goods, or in any physical media on which Materials are stored, shall pass to TRACKER on the earlier of delivery to TRACKER, or payment by TRACKER for the Materials.
- 4.2 TRACKER may reject any Materials delivered which are not in accordance with this Agreement.
- 4.3 The Supplier agrees that all TRACKER Property, which is held in the possession or under the control of the Supplier in terms of this Agreement, will be held at the risk and liability of the Supplier.

5 INTELLECTUAL PROPERTY RIGHTS

- 5.1 The Supplier will not obtain rights in any TRACKER Property. Upon request by TRACKER and in any event upon the expiration or termination of this Agreement, the Supplier will at its expense and as directed by TRACKER promptly return to TRACKER or destroy any TRACKER Property provided to the Supplier or its sub- contractors.
- 5.2 The Supplier will indemnify TRACKER and its customers and keep them indemnified against all losses (including Loss), costs, claims, demands, expenses and liabilities of any nature arising from or relating to the Services and/or the use or possession of the Materials infringing the Intellectual Property Rights of anyone else or any claim to that effect.
- 5.3 TRACKER will promptly tell the Supplier in writing if it becomes aware of any allegation of Intellectual Property Rights infringement to which Clause 5.2 applies, and will not make any admission without first obtaining the Supplier's written consent.
- 5.4 If requested to do so by the Supplier, and subject to Clauses 5.5 and 5.8, TRACKER will allow the Supplier at its own cost to conduct and/or settle all negotiations and litigation resulting from any claim to which Clause 5.2 applies. Where, however, TRACKER is being indemnified by the Supplier in terms of this Clause 5, TRACKER will be entitled (if it wishes) to elect to participate in the negotiations and/or litigation at its own cost. If TRACKER makes such an election the Supplier will liaise, consult and

co-operate with TRACKER, and keep it fully informed at all stages of the negotiations and/or litigation.

- 5.5 The Supplier will only be permitted to conduct and/or settle the negotiations or litigation where it first gives TRACKER full and adequate security to cover any amount which might be ascertained, agreed or estimated, as the case may be, as being the level of compensation, damages, expenses and costs for which TRACKER may become liable; and takes over the conduct of them within a reasonable time after becoming aware of the claim in question.
- 5.6 If the Supplier requests, TRACKER will give reasonable assistance with any negotiations or litigation as referred to in Clause 5.4 at the Supplier's cost.
- 5.7 If the use or possession of any of the Materials by TRACKER is held by a court to constitute an infringement of a third party's Intellectual Property Rights or TRACKER is given advice by an appropriately qualified adviser that the use or possession of the Materials is likely to constitute an infringement of a third party's Intellectual Property Rights, then the Supplier will promptly and at its own expense and to the satisfaction of TRACKER (a) obtain for TRACKER the right to continue using and possessing the Materials; or (b) modify or replace the Materials (without detracting from their overall performance, functionality and other characteristics) so as to avoid the infringement; or (c) with the written agreement of TRACKER, which will not be unreasonably withheld, if the terms of (a) or (b) above cannot be accomplished on reasonable terms. or if the claim is not avoided or resolved, remove the Materials and (or if TRACKER elects, those parts that infringe) from any RBS Group premises and will refund to TRACKER any sums paid under this Agreement for the parts removed and TRACKER will have the right to terminate this Agreement for material breach.
- 5.8 Notwithstanding Clauses 5.4 to 5.6 above, TRACKER may elect to retain control over any claim made against it in respect of an alleged infringement. In the event that TRACKER makes such an election, its remedy against the Supplier will be in damages rather than on an indemnity basis.
- 5.9 The obligations in this Clause 5 will remain in full force and effect following the termination or expiry of this Agreement.

6 CONFIDENTIALITY

- 6.1 Except to the extent set out in this Clause 6, the Supplier and TRACKER will each treat as confidential all Confidential Information obtained from the other under this Agreement, will protect such Confidential Information and will not, without the prior Written consent of the other, disclose or use such Confidential Information except for the purposes of this Agreement.
- 6.2 Clause 6.1 does not prohibit disclosure of Confidential Information to (a) the receiving party's own employees, agents and permitted sub-contractors who need to know it; (b) the receiving party's auditors, professional advisors, HM Revenue & Customs and any other person having a statutory or regulatory right to request and receive that information (including a Regulator); or (c) a person to whom an assignment has been permitted under Clause 17.

Each party will ensure that any person mentioned in Clause 6.2 is made aware, prior to any disclosure of Confidential Information that it is confidential and that such person and the receiving party owe a duty to the owner of it to keep it confidential. The receiving party shall be responsible for procuring that such person complies with the duty of confidentiality imposed by this Agreement as if they were a party to it.

- 6.3 Clause 6 does not apply to information which the receiving party can show by reference to documentary or other evidence (a) was rightfully in its possession prior to disclosure to it by the other party; (b) is already public knowledge or which

becomes so at a future date (otherwise than as a result of breach of this Clause 6); (c) is received from a third party who is not under an obligation of confidentiality in relation to the information; or (d) is developed independently without access to, or use or knowledge of, the Confidential Information.

- 6.4 The Supplier will not make any announcement or disclosure about this Agreement without the prior written consent of TRACKER.
- 6.5 TRACKER will not make any announcement or disclosure about this Agreement without the prior written consent of the Supplier.
- 6.6 Other than as expressly permitted under this Agreement, on termination or expiry of this Agreement for whatever reason, each party shall forthwith cease to use any Confidential Information of the other and shall return on demand, or at the request of the other, destroy or permanently erase all copies of that Confidential Information in its possession or control, save that either party will be permitted to retain one copy of such part of the Confidential Information for the purposes of and for so long as required by any law or by judicial or administrative process or its legitimate internal compliance issues.
- 6.7 The obligations in this Clause 6 will remain in full force and effect following the termination or expiry of this Agreement.

7 DATA PROTECTION

- 7.1 The Supplier undertakes to TRACKER that it will take all necessary steps to ensure that it operates at all times within the requirements of the Data Protection Act 1998 and, where requested in relation to the Services, the Supplier will assist TRACKER in discharging its obligations under the Data Protection Act 1998.
- 7.2 Without limiting Clause 7.1, if the Supplier receives from TRACKER or Processes any Personal Data on behalf of TRACKER, the Supplier will only Process the Personal Data in accordance with this Agreement and any instructions of TRACKER; will not transfer any of the Personal Data outside the European Economic Area; and will implement appropriate technical and organisational measures against unauthorised or unlawful Processing of, and against accidental loss or destruction of or damage to Personal Data as if it were the Data Controller in relation to those Personal Data in compliance with the Data Protection Act 1998 and will permit TRACKER to audit those measures on reasonable prior notice.
- 7.3 On termination or expiry of this Agreement for whatever reason, or upon written request at any time, the Supplier shall forthwith cease to use or Process any Personal Data received from or on behalf of TRACKER under this Agreement, and shall return to TRACKER on demand, or at the request of TRACKER destroy or permanently erase, all Personal Data and copies of those Personal Data in its possession or control. The Supplier will give TRACKER a certificate signed by one of its senior managers, confirming that it has fully complied with this Clause 7.3.

8 REGULATORY REQUIREMENTS

The Supplier acknowledges that TRACKER is subject to regulation by the Regulators in the countries in which TRACKER operates. These requirements may include requirements relating to outsourcing where they apply to this Agreement. TRACKER needs to be able to comply with the requirements of its Regulators and all legal requirements of the countries in which it operates. The Supplier agrees that it will give TRACKER all assistance that it reasonably requires to comply with these requirements. The Supplier further agrees that it will co-operate with any Regulator in connection with the provision and any other aspect of the Services.

9 DISPUTES

If a dispute arises under this Agreement which cannot be resolved by the parties' authorised representatives within a maximum of ten (10) Business Days after it has been referred to them, the dispute shall be referred to the Head of Unit of the Supplier and the TRACKER Director of Group Purchasing (or anyone appointed by TRACKER to deal with the dispute) for resolution. Should the dispute remain unresolved after such reference, Clause 20 shall apply. For the avoidance of doubt, the provisions of this Clause 9 do not prevent either party from applying for an interim court order at any time.

10 PERSONNEL

- 10.1 The Supplier agrees to arrange Staff, and, if applicable, procure that any sub-contractor of the Supplier arranges Staff, in relation to the provision of the Services in such a way that no individual is at any time wholly or mainly assigned to the provision of the Services and consequently that no contract of employment of any individual will transfer from the Supplier (or any sub-contractor of the Supplier) to TRACKER, or to any new supplier by virtue of the 2006 Regulations, on the cessation or partial cessation of the provision of the Services by the Supplier, or otherwise.
- 10.2 Notwithstanding Clause 10.1, if the employment of any individual is transferred from the Supplier (or any sub-contractor of the Supplier) to TRACKER or to any new supplier by virtue of the 2006 Regulations or any person asserts that his employment has so transferred, then TRACKER or such new supplier may terminate the employment of any such person within thirty (30) Business Days of becoming aware of such transfer or alleged transfer. Whether or not TRACKER or such new supplier terminates any contract of employment in such circumstances, the Supplier will indemnify TRACKER and each new supplier against (or, at the option of TRACKER, indemnify TRACKER on its own behalf and/or on behalf of any member of the RBS Group and/or any such new supplier) and as a separate obligation undertakes to pay to TRACKER the amount of, all losses, fines, penalties, awards, liabilities, costs, damages and expenses (including reasonable legal expenses on an indemnity basis) which TRACKER and/or any such new supplier may suffer or incur and which arise in connection with, or relate to the employment of such a person and/or the termination of their contract of employment.
- 10.3 Failure by the Supplier to comply with the provisions of this Clause 10 will be a material breach of this Agreement.

11 BUSINESS CONTINUITY

The Supplier will ensure that at all times it has in place and is able to implement a business continuity and disaster recovery plan which will ensure the continued performance and operational resilience of the Services. If required, the Supplier will explain to TRACKER how the features set out in such plan will interface with any business continuity and disaster recovery plans and procedures of TRACKER notified to the Supplier from time to time. The Supplier shall develop, update and test the plan on a regular basis and, in any event, not less than once in every 12 month period, in accordance with Good Industry Practice. The Supplier shall provide TRACKER with details of each test results within 10 Business Days and shall promptly implement any actions or remedial measures which TRACKER considers necessary as a result of those tests.

12 INFORMATION SECURITY

- 12.1 The Supplier will ensure that at all times it has in place and is operating in accordance with the terms of the Information Security Plan. The Supplier will ensure that the Information Security Plan complies with ISO 27001 and ISO 27002 (or any

replacement standard relating to information security). The parties agree that the information security principles contained in schedule 2 will be complied with.

- 12.2 The Supplier will develop and update the Information Security Plan on a regular basis and, in any event, not less than once in every 12 month period, in accordance with Good Industry Practice.
- 12.3 Upon any potential or actual known breach of the Information Security Plan or any obligations or duties owed by the Supplier to TRACKER relating to confidentiality or Confidential Information, the Supplier will remedy the breach and will promptly: (i) notify TRACKER of the breach (and follow-up in writing); and (ii) implement any actions or remedial measures which TRACKER considers necessary as a result of the breach.
- 12.4 The Supplier will permit TRACKER to have sight, and retain copies, of the Information Security Plan upon reasonable notice at any time.
- 12.5 If requested, the Supplier will explain to TRACKER how the Information Security Plan will meet the information security requirements of TRACKER as notified to the Supplier from time to time. If TRACKER considers (on reasonable grounds) that the Information Security Plan is insufficient to ensure the confidentiality and security of Confidential Information or falls to meet the requirements of any Regulator or fails to meet industry standards relating to data or information security then TRACKER may require the Supplier to modify the Information Security Plan to cure such insufficiency or failure and the Supplier will promptly make the modifications that TRACKER requires.
- 12.6 The Supplier will ensure that all Confidential Information which is no longer required is erased or destroyed and that such Confidential Information is not recoverable. The erasure and/or destruction processes will form part of the Information Security Plan.

13 FORCE MAJEURE

- 13.1 Neither TRACKER nor the Supplier will be liable for any delay in performing their obligations under this Agreement where such delay is directly caused by a Force Majeure Event provided that in the case of the Supplier, it will only have a right to relief in terms of this Clause where there is no failure by the Supplier to provide the back-up and recovery facilities and services in accordance with the plan referred to in Clause 11.
- 13.2 Subject to the party who has been delayed promptly telling the other party in writing of the reasons for the delay and the likely duration of the delay, and using its reasonable efforts to continue to perform its obligations under this Agreement and to mitigate the effects of the delay, the performance of that party's obligations will be suspended during the period of the Force Majeure Event so far as it affects the obligations in question and that party will be granted an extension of time for performance equal to the period of the delay. TRACKER may, if that delay continues for more than five (5) weeks, terminate this Agreement immediately on giving notice in writing to the Supplier.

14 LIABILITY

- 14.1 Neither TRACKER nor the Supplier will be liable to each other regarding this Agreement for any indirect, special or consequential loss or damages, whether caused by breach of contract or tort (including negligence or breach of statutory duty) or arising in any other way.
- 14.2 Neither TRACKER nor the Supplier will be liable to each other regarding this Agreement for any direct loss or damage, whether caused by breach of contract or

tort (including any negligence or breach of statutory duty) or arising in any other way, in excess of:

- 14.2.1 £1,000,000 Sterling in respect of loss or damage to tangible property per claim or series of related claims; and
- 14.2.2 in other cases, £1,000,000 Sterling per claim or series of related claims.
- 14.3 The limits and exclusions of liability set out in Clauses 14.1 and 14.2 do not apply to:
 - 14.3.1 any liability of the Supplier under Clauses 5 or 10;
 - 14.3.2 liability for death or personal injury caused by a party's negligence or that of its employees or agents;
 - 14.3.3 loss caused by fraud or fraudulent misrepresentation; or
 - 14.3.4 any loss which by law cannot be excluded or limited.

15 TERM AND TERMINATION

- 15.1 This Agreement will come into effect on the Commencement Date and will continue, subject to the terms of this Agreement, for one (1) year. TRACKER may extend the term of this Agreement beyond that time for consecutive periods of up to one (1) year at a time (each an "**Agreement Extension**"), by giving written notice to the Supplier to that effect, at least three (3) months prior to the end of the first year or the expiry of the then current Agreement Extension, as the case may be. Where no notice is given by TRACKER in accordance with this Clause, this Agreement will expire automatically one year after the Commencement Date, or at the end of the then current Agreement Extension, as the case may be.
- 15.2 This Agreement may be terminated by TRACKER:
 - 15.2.1 at any time by giving a minimum of sixty (60) days' prior written notice to the Supplier; or
 - 15.2.2 in circumstances in which termination is necessary for the purposes of meeting the requirements from time to time of a Regulator. If such circumstances arise, termination may be effected immediately, or within such period of time as the requirements of the Regulator permit by giving notice to the Supplier to that effect; or
 - 15.2.3 in accordance with Clauses 5.7 and 13.2; or
 - 15.2.4 immediately or within such period of time as TRACKER considers reasonably necessary by giving notice to the Supplier, in the event of an act or omission on the part of the Supplier or its sub-contractor which TRACKER reasonably believes will impact adversely on the reputation of the RBS Group; or
 - 15.2.5 immediately or within such period of time as TRACKER considers reasonably necessary by giving notice to the Supplier if TRACKER becomes aware that there has been a Change of Control or a Substantial Disposal provided that TRACKER will not be entitled to terminate this Agreement under this Clause 15.2.5 where the Change of Control or Substantial Disposal has been approved by TRACKER in advance in writing and, for this purpose, the Supplier will notify TRACKER in writing immediately on becoming aware that any such Change of Control or Substantial Disposal has taken or is due to take place; or
- 15.3 This Agreement may be terminated immediately by either party upon written notice to the other party, if the other party:

- 15.3.1 ceases to trade or is unable to pay its debts as they fall due, makes an arrangement with its creditors or goes into administration, receivership, liquidation (other than as part of a solvent re-organisation), bankruptcy, judicial factory or any analogous insolvency proceedings in any jurisdiction; or
- 15.3.2 materially breaches this Agreement, except that where such breach is capable of being remedied, this Agreement may only be terminated where the party in breach has failed to remedy the breach within thirty (30) days of receipt of written notice of the breach. Notwithstanding the foregoing, this Agreement can be terminated immediately where the breach is persistent. A breach of this Agreement will be persistent where the party in breach has already been asked to remedy the breach but it has recurred not less than 2 further times in any continuous period of twelve (12) months.
- 15.4 Any termination or expiry of this Agreement (however it occurs) will not affect any rights or liabilities of either party that may have accrued before termination or expiry of any provisions of this Agreement that are expressly or by implication intended to come into or continue in force on or after such termination or expiry.
- 15.5 Where this Agreement is lawfully terminated by TRACKER, the Supplier will within 30 days repay to TRACKER any portion of the Sponsorship which has been paid in advance and which relates to the period after the date of termination, save where this Agreement has been lawfully terminated by TRACKER in terms of Clause 15.2.2 in circumstances where the Supplier is not in breach of the terms of this Agreement.

16 TERMINATION ASSISTANCE

Following notice of termination being given or received by the Supplier, or at any time commencing in the three month period prior to expiry of this Agreement, the Supplier will comply (and will ensure that any sub-contractor will comply) with TRACKER'S reasonable directions and will provide TRACKER with any and all termination assistance reasonably requested by TRACKER to allow the Services to continue without detriment to the quality of the Services until the termination date.

17 THE RBS GROUP

- 17.1 The Supplier agrees that all benefits, warranties, indemnities, licences and any other rights granted or provided to TRACKER under this Agreement or any Services Order are also granted or provided to all other members of the RBS Group and that the Supplier owes the same duties and obligations to the other members of the RBS Group as it owes to TRACKER regardless of whether or not TRACKER is a party to the Services Order. Other than in respect of any:

- 17.1.1 duty or obligation of TRACKER;
- 17.1.2 right of the Supplier;
- 17.1.3 reference to TRACKER in Clause 4.1 (Transfer of Title); or
- 17.1.5 reference to TRACKER in this Clause 17 (RBS Group);

any other reference to TRACKER will be deemed to refer to any member of the RBS Group.

- 17.2 In the event of any negligence or breach of this Agreement by the Supplier which results in any loss, damage, costs or expense ("**Loss**") being suffered by a member of the RBS Group, that Loss will be treated as if it had been suffered by TRACKER.
- 17.3 TRACKER will be able to recover any Loss from the Supplier subject to any limits on the Supplier's liability contained in this Agreement. For this purpose, any Loss suffered by members of the RBS Group (other than TRACKER) will not be treated as

being indirect, special or consequential in terms of Clause 14.1 simply because it has been suffered by members of the RBS Group and not by TRACKER directly.

17.4 The limitations of liability in this Agreement will apply to the RBS Group as a whole so that they apply to all liabilities incurred under or in connection with this Agreement:

17.4.1 by the Supplier to the RBS Group in aggregate; and

17.4.2 by the RBS Group in aggregate to the Supplier.

17.5 If and to the extent that TRACKER is unable to recover Loss suffered by other members of the RBS Group under Clause 17.3, each member will be entitled to recover such Loss directly from the Supplier and to enforce this Agreement against the Supplier for this purpose under the Contracts (Rights of Third Parties) Act 1999. TRACKER and the Supplier may withdraw from or vary this Agreement or terminate it in accordance with its terms without the agreement of any other member of the RBS Group.

17.6 The Supplier acknowledges that the provisions of this Clause 17 have been notified to the other members of the RBS Group.

18 RESTRUCTURING, ASSIGNMENT AND SUBCONTRACTING

18.1 The Supplier acknowledges that the RBS Group may, from time to time, be restructured or undergo changes such that members of the RBS Group or divisions or parts of TRACKER and/or the RBS Group may no longer form part of the RBS Group under limbs (a) or (b) of the definition of "RBS Group" at Clause 1.1 (such members, divisions or parts thereof being a **"Divested Affiliate"**).

18.2 TRACKER shall be entitled to provide the benefit of the Services and all Materials provided by the Supplier to such Divested Affiliate, unless or until TRACKER decides to discontinue such provision.

18.3 As an alternative to Clause 19.2 above, if TRACKER elects otherwise in writing the Divested Affiliate shall continue to enjoy all the benefits and Services it is receiving or is or may be entitled to pursuant to this Agreement and the right to utilise all Materials provided by the Supplier) as it enjoyed prior to divestment and for the duration of any applicable licence terms (if any) relevant to TRACKER's own use with the Supplier then providing its Services directly to such Divested Affiliate.

18.4 The Supplier's contract in respect of the Services and Materials provided to the Divested Affiliate shall remain with TRACKER, unless expressly agreed to the contrary. All losses suffered by the Divested Affiliate as a result of any default by the Supplier shall however be treated as if they were losses suffered by TRACKER and shall be recoverable accordingly by TRACKER in accordance with this Agreement.

18.5 The Supplier will provide termination assistance to the Divested Affiliate as described in Clause 16 and as may be reasonably required by TRACKER and/or the Divested Affiliate.

18.6 TRACKER may assign or in any way transfer or dispose of all or any of its rights (including the benefit of any licence) under or derived from this Agreement, or any part of them, to:

18.6.1 any facilities management, disaster recovery or other contractor to which TRACKER outsources any part of its activities; or

18.6.2 any Divested Affiliate or any successor in title to ownership of any Divested Affiliate or part of the RBS Group; or

- 18.6.3 any member of the RBS Group.
- 18.7 The Supplier shall agree to:
- 18.7.1 any assignment or transfer (in whole or in part) of TRACKER's obligations under or derived from this Agreement to any party listed at Clauses 18.6.1 to 18.6.3 (inclusive) above; and/ or
- 18.7.2 any novation (in whole or in part) of this Agreement to any party listed at Clauses 18.6.1 to 18.6.3 (inclusive) above.
- 18.8 The Supplier may not sub-contract with any person (including appointing any agent, consultant or contractor) to perform any part of this Agreement or aspect of the Services, without obtaining TRACKER's prior written consent. The Supplier will be responsible for any acts, or failures to act, of its sub-contractors as if they were the Supplier's acts or failures to act. The Supplier will only sub-contract with sub-contractors on a basis which allows TRACKER to comply with the requirements of the Regulators in terms of Clause 8. The Supplier will ensure that all sub-contractors comply with the provisions of Clauses 8 and 19.9 as if they were the Supplier.
- 18.9 At TRACKER's request, the Supplier will negotiate in good faith with any Divested Affiliate in order to negotiate replacement agreement(s) to this Agreement, or any part thereof.
- 18.10 The removal of any RBS Group company from receipt of the benefits (in whole or in part) of this Agreement shall be at the sole discretion of TRACKER. The operation of Clauses 16.1 to 18.9 (inclusive) shall not affect the receipt of the Services by TRACKER or any members of the RBS Group (other than a Divested Affiliate) or otherwise amend the terms of this Agreement and in no event shall the Supplier be entitled to higher or additional Sponsorship (whether from TRACKER, the Divested Affiliate or otherwise) as a result of the operation of the terms of this Clause 18.
- 18.11 For the avoidance of doubt and for the purposes of those Clauses only, reference to "TRACKER" at Clauses 18.1 to 16.5 (inclusive) or in Clauses 18.8 and 18.10 shall not be deemed to include a reference to any Divested Affiliate.
- 18.12 Other than as provided for in this Clause 18, neither party may assign or otherwise transfer this Agreement or any of its rights and/or obligations under this Agreement whether in whole or in part without the prior written consent of the other party.

19 GENERAL

- 19.1 This Agreement does not create a partnership or joint venture between the parties to it and except as expressly provided in this Agreement neither party will enter into or have authority to enter into any engagement or make any representations or warranties on the other party's behalf, nor will they seek to otherwise bind or oblige the other party in any way. Neither this Agreement nor the provision of the Services is intended to create or imply any employment relationship between TRACKER or any member of the RBS Group, and the Staff, during the term of this Agreement.
- 19.2 This Agreement (including the Schedules) constitutes the entire agreement between the parties with respect to the subject matter of this Agreement. This Agreement supersedes any previous agreement between the parties relating to the subject matter thereof. Each of the parties acknowledges and agrees that in entering into this Agreement, it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or understanding (whether negligently or innocently made) other than as expressly set out in this Agreement. Nothing in this Clause 21 shall operate to exclude any liability for fraud.

- 19.3 The Supplier and TRACKER will each nominate a person with appropriate authority to act as its representative under this Agreement. No variation of this Agreement shall be valid unless it is in writing and signed by authorised representatives of each party.
- 19.4 Any notice to be given pursuant to the terms of this Agreement shall be given in writing to the party due to receive such notice at (in the case of a company) its registered office from time to time or (in the case of an individual) at their address set out in this Agreement or such other address or fax number as may have been notified to the other party in accordance with this Clause 19. Notice shall be delivered personally or sent by first class prepaid recorded delivery or registered post (airmail if overseas) or by facsimile transmission, and shall be deemed to be given in the case of delivery personally on delivery and in the case of posting (in the absence of evidence of earlier receipt) forty-eight (48) hours after posting (six (6) days if sent by airmail) and in the case of facsimile transmission on completion of the transmission provided that the sender shall have received printed confirmation of transmission.
- 19.5 Should a notice be delivered on a day other than a Business Day, the notice shall be deemed to be given on the next Business Day following the day of actual delivery.
- 19.6 Notices sent by facsimile transmission shall also be sent by first class prepaid recorded delivery or registered post (airmail if overseas) within twenty-four (24) hours of being sent by facsimile transmission.
- 19.7 If any Clause (or part of a Clause) of this Agreement should be found not to be valid, lawful or enforceable by a court having proper authority or if the law changes so that it becomes invalid, unlawful or unenforceable to any extent the Clause (or part affected) will be treated as having been deleted from the remaining terms of this Agreement which will continue to be valid. In addition, the parties will use reasonable efforts to replace the deleted Clause (or part) with a valid replacement provision which is as close as possible to the one that has been deleted.
- 19.8 If either party delays or fails to exercise its rights under this Agreement it does not prevent that party from exercising those rights at any time afterwards. In addition, if a party waives its right on one occasion this does not mean that the party has lost (or waived) these rights on a later occasion. TRACKER's express rights and remedies under this Agreement are in addition to and are not exclusive of any other right or remedy available to TRACKER at law.
- 19.9 The Supplier shall permit a representative appointed by TRACKER or a Regulator to conduct an audit of the Services from time to time by prior arrangement.
- 19.10 The Supplier will tell TRACKER as soon as it becomes aware of any developments that may have a material adverse impact on the Supplier's ability to meet its obligations under this Agreement. Such developments include (but are not limited to) any relevant material control weaknesses identified by the Supplier's internal or external auditors.
- 19.11 Except where such rights are expressly granted by this Agreement, a person who is not party to this Agreement shall have no right under the Contracts (Rights of Third Parties) Act 1999 to enforce any term of this Agreement. This Clause does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act.
- 19.12 This Agreement may be executed in any number of counterparts each of which when executed by one or more of the parties hereto shall constitute an original but all of which shall constitute one and the same instrument.

Schedule 1

THE SERVICES, SERVICE LEVELS AND SPONSORSHIP

1. Services

1.1 Supplier Services

****S31(1)** and **S43(2)****

1.1.1 ****S31(1)** and **S43(2)****

1.1.2 ****S31(1)** and **S43(2)****

1.1.3 ****S31(1)** and **S43(2)****

1.1.4 ****S31(1)** and **S43(2)****

2. Service levels

2.1 ****S43(2)****

2.1.1 ****S43(2)****

2.1.2 ****S43(2)****

2.1.3 ****S43(2)****

2.1.4 ****S43(2)****

3. Materials and Specification

The Supplier will provide the information in Item 1 of this Schedule 1 to TRACKER in a format determined by THACKER, acting reasonably, or otherwise in an Excel spreadsheet format.

4. Sponsorship and Invoicing

****S43(2)****

Schedule 2

INFORMATION SECURITY

1. Access to the data and Materials will be limited to staff directly involved in the Project
2. Any data collected will be used only for the purpose of this Project; no data provided for the purpose of this operation shall be used for marketing or sales purposes.
3. TRACKER accepts responsibility for the integrity and security of data from the point it is delivered by the Supplier.
4. The Supplier accepts responsibility for the integrity and security of data from the point it is delivered by TRACKER.
5. All data transferred between the parties must be delivered personally and be password protected.
6. Data will not be stored on any portable devices such as laptops and USB drives unless appropriate encryption is used. Any data on USB or other portable devices used for the transmission of data between the Supplier and TRACKER will be securely deleted or destroyed once the data has been transferred to secure servers. Given the elevated risk of loss of data, portable devices will be afforded the highest level of security reasonably possible.
7. Data and intelligence will be stored on secure databases that comply with corporate security specifications. Under no circumstances will data be stored on unprotected personal computers or USB storage devices.

20 **LAW**

This Agreement is made under English law and the English courts will have authority to settle any dispute. TRACKER will be free to take action against the Supplier in the English courts or in the courts of any other country which has authority to settle any dispute. The Supplier will only take court action against TRACKER in the English courts.

IN WITNESS whereof the parties or their duly authorised representatives have executed this Agreement and the following 2 Schedules on the day and year first above written.

Signed for and on behalf of TRACKER

By.....

****S40(2)****

****S40(2)****

Authorised signatory

****S40(2)****