

UK-Shrewsbury: Refuse and waste related services.

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Section I: Contracting Authority

I.1) Name and addresses

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

Contact: Procurement

Main Address: www.shropshire.gov.uk

NUTS Code: UKG22

I.2) Joint procurement

The contract involves joint procurement: No.

In the case of joint procurement involving different countries, state applicable national procurement law: Not provided

The contract is awarded by a central purchasing body: No.

I.3) Communication

The procurement documents are available for unrestricted and full direct access, free of charge, at: <https://www.delta-esourcing.com/tenders/UK-UK-Shrewsbury:-Refuse-and-waste-related-services./245Y675H28>

Additional information can be obtained from: the abovementioned address

Tenders or requests to participate must be sent electronically via <https://www.delta-esourcing.com/tenders/UK-title/245Y675H28> to the abovementioned address

Electronic communication requires the use of tools and devices that are not generally available.

Unrestricted and full direct access to these tools and devices is possible, free of charge, at:

<https://www.delta-esourcing.com/tenders/UK-title/245Y675H28>

I.4) Type of the contracting authority

Regional or local authority

I.5) Main activity

General public services

Section II: Object

II.1) Scope of the procurement

II.1.1) Title: RMCB 038 - The Provision of Recycling and Waste Collection Services including the Destruction of Confidential Waste Paper where applicable from Shropshire Council Owned/Run Properties

Reference Number: RMCB 038

II.1.2) Main CPV Code:

90500000 - Refuse and waste related services.

II.1.3) Type of contract: SERVICES

II.1.4) Short description: It is Shropshire Council's intention to award this contract to one contractor. The contract shall comprise of the provision of recycling and residual waste collection services including destruction of confidential waste paper as and when required and where instructed from Shropshire Council owned/run properties throughout the County of Shropshire.

The fundamental objective of the contract is to provide an efficient waste management service capable of servicing Shropshire Council owned and run sites with a full recycling, residual and confidential paper destruction service. The Council places emphasis on the waste hierarchy with waste prevention and recycling above waste treatment and disposal.

II.1.5) Estimated total value:

Value excluding VAT: 355,510

Currency: GBP

II.1.6) Information about lots:

This contract is divided into lots: No

II.2) Description

II.2.2) Additional CPV codes:

Not Provided

II.2.3) Place of performance:

UKG22 Shropshire CC

II.2.4) Description of procurement: It is Shropshire Council's intention to award this contract to one contractor. The contract shall comprise of the provision of recycling and residual waste collection services including destruction of confidential waste paper as and when required and where instructed from Shropshire Council owned/run properties throughout the County of Shropshire.

The fundamental objective of the contract is to provide an efficient waste management service capable of servicing Shropshire Council owned and run sites with a full recycling, residual and confidential paper destruction service. The Council places emphasis on the waste hierarchy with waste prevention and recycling above waste treatment and disposal.

II.2.5) Award criteria:

Price is not the only award criterion and all criteria are stated only in the procurement documents

II.2.6) Estimated value:

Value excluding VAT: 355,510

Currency: GBP

II.2.7) Duration of the contract, framework agreement or dynamic purchasing system:

Start: 11/11/2021 / End: 31/08/2026

This contract is subject to renewal: Yes

Description of renewals: The contract is for an initial period of three years, thereafter the contract may be extended for a further two years subject to satisfactory performance during the contract year.

II.2.10) Information about variants:

Variants will be accepted: No

II.2.11) Information about options:

Options: No

Description of options: Not provided

II.2.12) Information about electronic catalogues:

Tenders must be presented in the form of electronic catalogues or include an electronic catalogue: No

II.2.13) Information about European Union funds:

The procurement is related to a project and/or programme financed by European Union funds: No

Identification of the project: Not provided

II.2.14) Additional information: Not provided

Section III: Legal, Economic, Financial And Technical Information

III.1) Conditions for participation

III.1.1) Suitability to pursue the professional activity, including requirements relating to enrolment on professional or trade registers

List and brief description of conditions:

See tender documentation

III.1.2) Economic and financial standing

Selection criteria as stated in the procurement documents

List and brief description of selection criteria:

Not Provided

Minimum level(s) of standards possibly required (if applicable) :

Not Provided

III.1.3) Technical and professional ability

Selection criteria as stated in the procurement documents

List and brief description of selection criteria:

Not Provided

Minimum level(s) of standards possibly required (if applicable) :

Not Provided

III.1.5) Information about reserved contracts (if applicable)

The contract is reserved to sheltered workshops and economic operators aiming at the social and professional integration of disabled or disadvantaged persons: No

The execution of the contract is restricted to the framework of sheltered employment programmes:

No

III.2) Conditions related to the contract

III.2.1) Information about a particular profession

Reference to the relevant law, regulation or administrative provision:

Not Provided

III.2.2) Contract performance conditions

See tender documentation

III.2.3) Information about staff responsible for the performance of the contract

Obligation to indicate the names and professional qualifications of the staff assigned to performing the contract: Yes

Section IV: Procedure

IV.1) Description OPEN

IV.1.1) Type of procedure: Open

IV.1.3) Information about a framework agreement or a dynamic purchasing system

The procurement involves the establishment of a framework agreement - NO

In the case of framework agreements justification for any duration exceeding 4 years: Not Provided

IV.1.6) Information about electronic auction:

An electronic auction will be used: No

Additional information about electronic auction: Not provided

IV.1.8) Information about the Government Procurement Agreement (GPA)

The procurement is covered by the Government Procurement Agreement: No

IV.2) Administrative information

IV.2.1) Previous publication concerning this procedure:

Notice number in the OJ S: Not provided

IV.2.2) Time limit for receipt of tenders or requests to participate

Date: 22/09/2021 Time: 12:00

IV.2.4) Languages in which tenders or requests to participate may be submitted: English,

IV.2.6) Minimum time frame during which the tenderer must maintain the tender: Not Provided

IV.2.7) Conditions for opening of tenders:

Date: 22/09/2021

Time: 12:00

Place:

Shrewsbury

Section VI: Complementary Information

VI.1) Information about recurrence

This is a recurrent procurement: Yes

Estimated timing for further notices to be published: An initial period of three years, thereafter the contract may be extended for a further two years

VI.2) Information about electronic workflows

Electronic ordering will be used No

Electronic invoicing will be accepted No

Electronic payment will be used No

VI.3) Additional Information: The contracting authority considers that this contract may be suitable for economic operators that are small or medium enterprises (SMEs). However, any selection of tenderers will be based solely on the criteria set out for the procurement.

For more information about this opportunity, please visit the Delta eSourcing portal at:

<https://www.delta-esourcing.com/tenders/UK-UK-Shrewsbury:-Refuse-and-waste-related-services./245Y675H28>

To respond to this opportunity, please click here:

<https://www.delta-esourcing.com/respond/245Y675H28>

VI.4) Procedures for review

VI.4.1) Review body:

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

VI.4.2) Body responsible for mediation procedures:

Not provided

VI.4.3) Review procedure

Precise information on deadline(s) for review procedures:

Not Provided

VI.4.4) Service from which information about the lodging of appeals may be obtained:

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

VI.5) Date Of Dispatch Of This Notice: 23/08/2021

Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

Date: 23rd August 2021

My Ref: RMCB 038

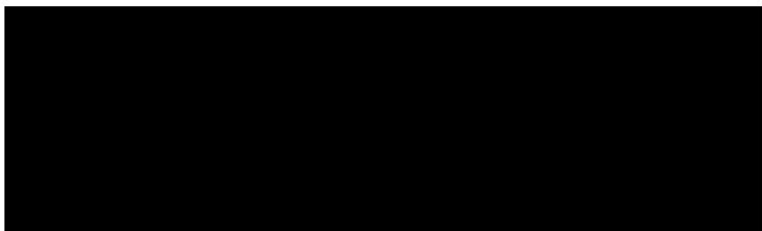
Your Ref: RMCB 038

Dear Bidder

RMCB 038 - THE PROVISION OF RECYCLING AND WASTE COLLECTION SERVICES INCLUDING THE DESTRUCTION OF CONFIDENTIAL WASTE PAPER WHERE APPLICABLE FROM SHROPSHIRE COUNCIL OWNED/RUN PROPERTIES

SHROPSHIRE COUNCIL

You have been invited to tender for the above requirement. With this letter please find copies of the following documents:



Tenders should be made on the enclosed Tender Response Document. Your Tender must be completed, signed and returned along with a signed copy of the instructions for tendering through our Delta Tenderbox. Please pay particular attention to the points below concerning the returning of tenders.

Returning of Tenders

- The deadline for returning tenders is **noon on 22nd September 2021** any tenders received after this time will not be accepted
- Tenders are to be submitted through Delta, our electronic tender portal
- **Please ensure that you allow yourself at least two hours when responding prior to the closing date and time**, especially if you have been asked to upload documents. If you are uploading multiple documents you will have to individually load one document at a time or you can opt to zip all documents in an application like WinZip. Failure to submit by the time and date or by the method requested will not be accepted.
- **Once you upload documentation ensure you follow through to stage three and click the 'response submit' button. Failure to do so, will mean the documents won't be viewable by the Council**

Tenders **cannot** be accepted if:

- Tenders are received by post, facsimile or email
- Tenders are received after **12 noon on the given deadline**

Freedom of Information

Under the provisions of the Freedom of Information Act 2000 from 1 January 2005, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. Information about your organisation, which Shropshire Council may receive from you may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.

Therefore if you provide any information to Shropshire Council in the expectation that it will be held in confidence, you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.

Other Details

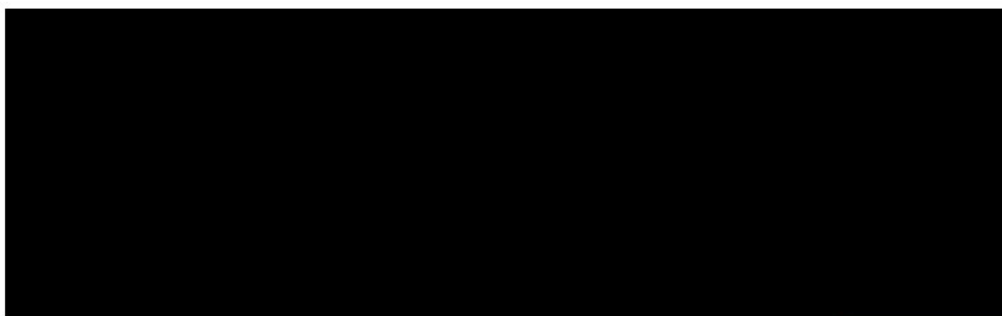
Please note that if supplementary questions are raised by any tenderer prior to the closing of tenders and Shropshire Council decides that the answers help to explain or clarify the information given in the Tender Documents, then both the questions and the answers will be circulated to all enterprises invited to submit a tender. Please raise all clarification questions before the deadline of **15th September 2021**.

Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council's involvement

Please also note that Shropshire Council is committed to achieving Social Value outcomes through maximising the social, economic and/or environmental impact of all its procurement activity. Specific requirements for this contract are set out within the Tender Response Document and in addition for your further information the council's Social Value Framework guidance can be found at www.shropshire.gov.uk/doing-business-with-shropshire-council.

If you have any queries relating to this invitation to tender, please contact us through the Delta e-tendering portal.

Yours faithfully



SHROPSHIRE COUNCIL

FACILITIES MANAGEMENT TEAM

**RMCB 038 - The Provision of Recycling and Waste
Collection Services including the destruction of
confidential waste paper from Shropshire Council
owned/run properties**

SPECIFICATION

*Prepared by:
Shropshire Council
Facilities Management Team
June 2021*

RMCB038 - WASTE COLLECTION

COLLECTION OF COMMERCIAL WASTE FROM SHROPSHIRE COUNCIL BUILDINGS SPECIFICATION

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WASTE COLLECTION SPECIFICATION

1.0 GENERAL CONDITIONS

1.1 SCOPE OF CONTRACT

It is Shropshire Council's intention to award this contract to one Contractor. The contract shall comprise of the provision of recycling and residual waste collection services including destruction of confidential waste paper as and when required and where instructed from Shropshire Council owned/run properties throughout the County of Shropshire.

The fundamental objective of the contract is to provide an efficient waste management service capable of servicing Shropshire Council owned and run properties with a full recycling, residual and confidential paper destruction service (where instructed). The Council places emphasis on the waste hierarchy with waste prevention and recycling above waste treatment and disposal.

1.2 DURATION OF CONTRACT

In the first instance competitive tenders are being invited for an initial period of three years commencing 11th November 2021, thereafter the contract may be extended for a further two years subject to satisfactory performance during the contract year.

For subsequent years, annual increases only will be considered, and any annual increase imposed on the anniversary of the commencement of the contract must not exceed the percentage increase in the RPI index during the preceding 12 months (December to December). However, in any event, Shropshire Council reserves the right to negotiate with the Contractor any proposed annual increase in rates if in its opinion they are not justified.

The Council is not bound to accept the lowest or any tender for this contract and will not be responsible for any costs in relation to the preparation of this tender.

1.3 SAFETY AND WELFARE OF WORKMAN

The Contractor's attention is particularly drawn to the clause relating to the "Safety and Welfare of Workmen" in the General Conditions and Preliminaries and shall allow in his tender for the complying with the regulations stated in this contract.

1.4 IMPORTANT NOTES

- Contractors shall be responsible for visiting the site(s) to take all their own measurements and site surveys and shall make arrangements with the establishment for gaining access to the relevant areas for the purpose of obtaining all necessary particulars for the contract. No claims will be accepted by the Contractor on the grounds of insufficient knowledge.
- The Contractor should familiarise himself with the site(s) and in particular to the problems of gaining access to the site(s). Any damage caused to any property in gaining access to the site by the Contractor or persons servicing the Contractor will be made good at the Contractor's own expense.
- The Contractor shall make good any damage caused to the premises by the Contractor or persons servicing the Contractor during the contract at the Contractor's own expense.
- The Contractor should ensure that the area(s) they have been working in are left in a clean, tidy and safe condition any concerns must be raised with the Contractor Administrator immediately

- The Contractor shall ensure that all employees working for the Contractor and any persons servicing the Contractor behave in a responsible and respectful manner to all employees of the premises or any persons attending the premises, to include the wearing of suitable and respectable clothing.
- The playing of radios or similar devices to the annoyance of or causing noise nuisance to the building users is strictly prohibited.
- This contract is being undertaken on active Council sites and as such the normal operation of any site should not be interfered with. Co-operation and liaison with the site manager about the schedule and limitations is imperative.
- Shropshire Council cannot guarantee a minimum number of properties on this contract and the Contractor shall have no claim whatsoever should the number of properties reduce for the duration of this contract.

1.5 IDENTITY PASSES

All employees and persons servicing the Contractor shall, at the Contractor's expense, be provided with identification passes which meet the minimum acceptable standards of Shropshire Council. The passes shall contain a current photograph of the recipient together with his/her name, also the name of the company by which they are employed and having an authorisation signature, provided by a senior manager/director of that company. The passes should be encapsulated for protection and be available for inspection by premises staff or representatives of the Contract Administrator, at any time while the operative is on site.

1.6 GENERAL HEALTH AND SAFETY

The sites shall be maintained as a clean area at all times free of any litter or debris. The Contractor shall ensure that all public areas and pathways are left clear and free of hazards at all times and leave the premises clean and tidy on completion of the work.

The Council is not responsible for providing suitable first aid facilities on site this is the responsibility of the Contractor.

The Contractor shall ensure that all personnel are provided with, and instructed to wear, personal protective equipment where and whenever there is a risk of injury.

If the premises management agree to provide in-house toilet facilities, the Contractor shall ensure that such facilities and access to and from them, are maintained with all due care and 'left as found'.

1.7 COVID-19

The successful contractor must provide a written risk assessment in relation to Covid-19 detailing all safety measures in place.

The successful contractor must adhere to all H&S Covid-19 measures in place at each site adhering to social distancing measures at all times where possible. If a face covering or PPE must be worn the successful contractor must provide these to their staff at no cost to the Council along with hand sanitisers and disinfectant wipes.

The successful contractor must ensure that their staff do not attend site if they are feeling unwell, have a temperature, cough or are showing signs of Covid-19

1.8 LEGISLATION

The Contractor's attention is drawn to the following Health, Safety and Welfare Legislation:

The Health and Safety at Work	Act 1974
Fire Precautions	Act 1971
Management of Health & Safety at Work	Regulations 1999
Construction and Design Management	Regulations 2015
Construction (Health Safety and Welfare)	Regulations 2015
Lifting Operations & Lifting Equipment	Regulations 1998
Personal Protective Equipment at Work	Regulations 2002
Construction (Head Protection)	Regulations 1989
Health and Safety (First Aid)	Regulations 2009
Control of Substances Hazardous to Health	Regulations 2002
Electricity at Work	Regulations 1989
The Fire Precautions (Workplace) (Amendment)	Regulations 1999
Reporting of Injuries, Diseases & Dangerous Occurrences	Regulations 2013
Manual Handling Operations	Regulations 1992
Provision & Use of Work Equipment	Regulations 1998
Noise at Work	Regulations 2005
Environmental Protection	Regulations 1990
Waste Management Licensing	Regulations 1994

This is not a complete list of the relevant legislation and is presented only as a guide to assist the Contractor.

1.9 RISK ASSESSMENT

The Contractor shall carry out a detailed and recorded "Risk Assessment" for the works and attach one copy to the completed tender documents when returning.

General Principle of Risk Assessment

The risk assessment will identify what measures the Contractor needs to take to comply with the requirements and prohibitions imposed on him by or under the "relevant statutory provisions". This phrase covers the general duties in the Health and Safety at Work Act etc. 1974 and more specific duties in the various Acts and Regulations (including the Management of Health and Safety at Work Regulations) 1992 associated with Health and Safety at Work.

1.10 METHOD STATEMENT

Contractors are reminded that for certain hazardous operations, they will be required to prepare a method statement for the work. It is anticipated that such statements will include, where applicable 'the sequence and method of work'.

The Council will always require a method statement for the following types of work:-

- a) demolition
- b) steel erection
- c) entry into confined spaces
- d) handling and removal of asbestos
- e) use of explosives (including cartridge tools)
- f) roof works and other overhead work
- g) contaminated sites or buildings
- h) other high risk activities may also require a Permit to Work

In many instances method statements can form the control measures required by risk assessment and the document can be accepted as such.

1.11 SPECIAL TERMS & CONDITIONS

The Council reserves the right to remove the Contractor from the contract if they deviate from the pricing schedule

The Council reserves the right to remove the Contractor from the contract for poor performance or any major breach of the specification

1.12 DATA PROTECTION

The successful Contractor shall in relation to the performance of his obligations under this Contract be contractually bound to the Council to act in a way which is consistent with the obligations of a public authority under the Data Protection Act 1998 and in particular the Principles of the Data Protection Act 1998. The relevant Data Protection clauses and requirements will be stated in the form of agreement document.

In addition to the above the following also apply:

- The British Standard for the secure destruction of confidential material (BS 8470:2006) applies to confidential information in all its forms. It requires companies to dispose of confidential information by shredding or disintegration. Confidential materials include paper records, computer hard drives and CDs/DVDs.
- Organisations must ensure that any documents containing confidential contract information must be disposed of in a manner that complies with BS 8470 when transporting, storing and destroying documents

1.13 BUSINESS CONTINUITY

The Contractor is required to have considered Business Continuity arrangements and developed robust Business Continuity Plans which will minimise any effects on this contract should the Contractor's resources or operations be compromised through an unplanned event. The Contractor shall make available upon request for inspection their Business Continuity plans which, as a minimum, shall detail contingencies in the event of loss or reduced Contract Administration staff, office facilities or IT infrastructure and craft operatives and/or sub-Contractors in the event of widespread illness i.e. flu pandemic. Additional contract sensitive issues i.e. supply chain management should also be considered.

1.14 TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS 2006 (TUPE)

It is the Council's view that TUPE does not apply to this contract in respect of those employees of the service provider for the current waste collection contracts. However it is the responsibility of the tendering Contractor to consider whether or not TUPE applies in this instance and seek all necessary legal advice. The tendering Contractor shall make all necessary allowances and include for financial implications within their tender for TUPE.

If TUPE does apply it shall be the Contractor's responsibility to consult with the necessary recognised trade unions and employee representatives with regard to any envisaged measures

1.15 ESSENTIAL/DESIRABLE MEMBERSHIP/REQUIREMENT

It is an essential requirement of this contract that the successful Contractor must adhere to the current Waste Management Licensing Regulations and it is the Contractor's responsibility to ensure that any amendments are adhered to throughout the duration of this contract.

It is desirable that the successful Contractor is a member of Chartered Institute of Wastes Management (CIWM), Environmental Services Association (ESA) or EU equivalent for the duration of this contract.

1.16 PERSONNEL

The successful Contractor must provide a thorough and detailed training programme, including health & safety, for each of the operatives that would be working on this contract. Evidence must also be given that continued training takes place which includes competency records along with asbestos awareness. It is the Contractor's responsibility to ensure that their personnel continue to receive up to date training throughout the duration of the contract and document evidence of this.

Documented evidence for each staff member who attend site must be provided by the Contractor as part of this tender.

2.0 GENERAL REQUIREMENTS

2.1 PROGRAMME OF WORK

The programme shall comprise of weekly or fortnightly collections of commercial waste from Shropshire Council owned/run properties as dictated by each site. The Contractor must ensure that waste paper, metal, plastic and glass are collected separately. It is the Contractor's responsibility to ensure the prevention of harm to human health and the environment throughout the duration of this contract.

Additional collections may be required periodically. It will be the responsibility of the site to arrange these directly with the Contractor.

The Contractor must schedule collections for 20, 40 or 52 weeks as required by each property. Collections are to be at the rates stated in Section C Pricing Schedule of the Tender Response document.

2.2 STATUTORY REGULATIONS

It is the Contractor's responsibility to ensure compliance with all relevant statutory regulations relating to the collection and disposal of waste are adhered to for the duration of the contract including the EU Waste Framework Directive along with any revisions.

2.3 DISPOSAL OF WASTE

The disposal of all waste must be carried out in accordance with the current regulations and it is the Contractor's responsibility to ensure that this is adhered to for the duration of the contract along with the Contract Service Outputs as detailed below.

2.4 SCHEDULE OF PROPERTIES

Please see Appendix A which details Shropshire Council owned/run properties that are included in this contract. Please ensure that all properties are given the tendered rate without the need to opt into the service.

2.5 UNIT COSTS

The unit costs per bin per lift are detailed in Section C, Pricing Schedule of the Tender Response Document. This cost to be applied to all properties throughout Shropshire. Additional costs must not be incurred for remote properties.

Any annual increases are to be in line with 1.2 above.

Any requests for additional lifts must be at the standard price rates and should not be at an inflated rate.

2.6 PAYMENT

As this contract commences 11th November 2021 a purchase order number will be given for the period 11th November to 31st March 2022. Thereafter, the contract will run for the period 1st April to 31st March each year for the duration of the contract. Payment of waste collection invoices will be paid monthly in arrears following receipt of the relevant collection report. Invoices must be accompanied by the relevant collection report as failure to do so will result in the delay of payment.

Separate invoices must be provided per property per month. Invoices must clearly state the property number, property name, full property address details and purchase order number.

Electronic invoices need to be sent to the Council Invoicing group email address clearly stating the purchase order number for each property which will be given by the responsible person/Premise Manager. Schools will have their own arrangement.

2.7 DELETION OF SERVICES

The Council may, during the period of the contract, wish to delete items of plant/property from the schedule of maintenance. Any such deletions shall be effected by giving one months' notice in writing and without penalty to the Council. Visits to sites by the Contractor following notification of deletion shall be at the Contractor's own expense. Any such deletion of plant/property shall lower the cost by the relevant amount.

2.8 ADDITIONAL PLANT/PROPERTIES

The Council may, during the period of the contract, wish to add items of plant/ properties to the schedule of maintenance. Any such additions shall be at the cost stated in Section C, Pricing Schedule of the Tender Response Document.

It is likely, although not guaranteed, that properties will be added to this contract once the contract with the previous waste collection Contractor expires or following adequate notice in writing to terminate the contract.

Any additional properties should be included on the tendered rate and should not have to opt into this contract.

2.9 TRANSPORT

The contract shall be deemed to include all transport cost for work persons performing work within the contract including that performed as a result of separate instructions.

2.10 ACCESS TO CONTAINERS

It is the Contractor's responsibility to gain access to containers to enable the waste to be collected. The scheduled date/time should be adhered to for the duration of this contract. Any changes to the collection date/time must be agreed with the Contract Administrator or Area Facilities Officer in advance.

It is appreciated that collection date/time may change due to Public Holidays or temporary building closures.

Collections will not be needed during school holidays for school buildings that are closed unless otherwise dictated. It is the Contractor's responsibility to obtain the school holiday dates for Shropshire Council schools to ensure these are factored into the schedule to avoid collection during these periods. These can be provided by the Contract Administrator upon request.

The Contractor will need to negotiate with schools direct to arrange a collection day/time that is convenient to the school as some schools do not have full time caretakers/cleaners in charge and access may be limited to the area where the bins are stored during school hours. No additional cost should be incurred for this.

If the Contractor enters a building during its closure and activates the intruder alarm, they may be liable for the costs incurred in relation to the Security Guarding company attending site.

2.11 MISSED COLLECTIONS

Any missed collections due to an error by the Contractor will not result in a charge for the Council and should be collected within 5 working days where requested.

2.12 HAZARDOUS SITUATIONS

Should a hazardous situation to the buildings' occupants become apparent, the appropriate service should be isolated (where applicable) and the situation drawn immediately to the Contract Administrator's attention by telephone on Shrewsbury (01743 252895 or 01743 281073).

2.13 DISCLOSURE BARRING SERVICE (DBS)

It is a requirement that the Contractor's members of staff (who attend school sites) are registered through the DBS and written confirmation supplied to the Council. As Contractor staff will be required to work within Shropshire Council Schools and other establishments, they may be required to provide proof of their DBS checks and this should be presented to the site if requested. The DBS needs to be enhanced

2.14 TERMINATION

The Council reserves the right to remove the Contractor from this contract at its absolute discretion where there are reasonable grounds for doing so and the Council will not be liable in any way to the Contractor in such circumstances.

If the Contractor wishes to be removed from this contract during its duration six months' notice must be given in writing to The Facilities Management Team Leader, Commercial Services, Shropshire Council, The Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

3.0 GENERAL GUIDANCE

The Contractor shall provide the Council with information to allow the Council to assess the competency of the Contractor and individual personnel carrying out the service work. This shall include as a minimum requirement the names of the specific persons who may carry out the work and a copy of their ISO 9001 certification. It shall also include details of the quality system operated by the Contractor along with their health & safety policy.

The Contractor's tender should include a method statement for the work to be undertaken.

The Contractor's insurance arrangements must comply with the tender requirements and be in force before work is allowed to commence and remain up to date for the duration of the contract. The Contractor should make copies of the policies available for approval when requested.

All work and procedures must adhere to relevant regulations, statutes and codes of practice.

The Contractor must comply with the Council's Health & Safety Policy. Failure to do so may result in immediate expulsion of Contractor personnel from the site.

Where hazardous or inflammable materials are brought onto site the Council must be notified in compliance with the 'Control of Substances Hazardous to Health Regulations, 2002'. Any hazardous waste generated during sampling (where applicable) must be removed from site by the Contractor in compliance with the 'Health and Safety at Work etc. Act 1974'.

All waste collections shall be undertaken with due care to avoid damage to the contents and fabric of the building.

The Contractor shall advise the premises manager that their waste collection staff may be taking photographs for the inclusion with waste collection report if applicable.

The Contractor is expected to exercise politeness, confidentiality and discretion whilst on site. Results of the service provided may only be divulged to the Council's representative and other persons nominated by the Council.

3.1 ESSENTIAL CRITERIA

It is a legal requirement and therefore an essential criteria for this contract that the Contractor must carry out all services in strict compliance with all relevant UK and EU legislation including any future regulations.

The Contractor must have the required licence in place for the following:

- Waste Carriers Licence
- Environmental permits/Waste Management Licences
- Waste Exemption Certificates
- Duty of Care controlled Waste Transfer Notes
- Hazardous/Special Waste Consignment Notes

It is the Contractor's responsibility to ensure that the collection and disposal of waste from all Shropshire Council properties is managed lawfully. These licences/notes shall be at the Contractors expense and no costs should be incurred by Shropshire Council.

4.0 COLLECTION PROGRAMME & SCHEDULING

The Contract Administrator may, during the period of the contract, wish to amend the method of collection reporting.

A new method of reporting **may be** required and the Contractor shall be able to provide proof of Web based reporting should it be required.

It is the Contractor's responsibility to schedule the collection and disposal of all waste ensuring the properties, the Contract Administrator and Area Facilities Officers are informed of the schedule timetable. However the Contractor must be flexible with changes in collection dates (sometimes monthly, sometimes fortnightly, sometimes several times a week depending of the season and

demand for certain locations) any changes are not to incur any additional cost and are to be as per Section H Pricing Schedule of the Tender Response document.

The Contractor shall provide a list of the properties included on the schedule to the Contractor Administrator every 3 months for the duration of the contract.

4.1 COLLECTION REPORTS

An individual report to be provided and sent with the invoice for each property showing the following:

- 1) Name and address of property
- 2) Property Number
- 3) Date of collection
- 4) Equipment Type (i.e. amount of Ltr)
- 5) Type of waste
- 6) Quantity of each lift
- 7) Total quantity of property lift

It is acceptable for reports to be for a one month period for each property however individual reports must be received for each property and must accompany the relevant invoice.

The Contractor shall ensure that monthly collection reports and invoices are submitted to the Contract Administrator or Area Facilities Officer in an electronic format. However, collection reports and invoices for schools should be sent directly to the relevant named person on each site.

5.0 CONTRACT SERVICE OUTPUTS

5.1 Service Output 1: Collection of dry recycling

- 5.1.1 The Contractor shall initially be required to provide services that at least match the current service level of a site with the aim of rolling out a consistent recycling service to all sites (where appropriate) in conjunction with the Council.
- 5.1.2 Contractors must describe all aspects of the service proposed for each material type in Section C 4.1 of the Tender Response document Recycling Services (page 34). This should include any material specifications and limitation on what cannot be collected.
- 5.1.3 The Contractor will not be responsible for provision and emptying of local office collection containers. All recyclables will be collected from centralised bin compounds.
- 5.1.4 When full, any central containers will be emptied and / or replaced with an equivalent empty container by the Contractor.
- 5.1.5 The Contractor should outline cost-effective solutions whereby compaction or additional storage can be supplied to facilitate a reduction in the costs of this service.
- 5.1.6 All recyclable waste must be sent to a licensed re-processor and appropriate paper work must be provided to the Council to demonstrate this.

5.2 Service Output 2: Collection and disposal of residual waste

- 5.2.1 Existing service arrangements at each site is detailed in Appendix A schedule of properties. The Contractor shall initially be required to provide services that provide at least the equivalent container volume per week.
- 5.2.2 It is a condition of this contract that all containers must be on site and the service fully operational by 11th November 2021.
- 5.2.3 As part of a continual improvement strategy, the Contractor and the Council shall monitor the use of containers. At 3 month intervals, or earlier if circumstances require, the number of containers and frequency of collection at each site shall be reviewed therefore the service provision at each site may be reduced or increased as necessary to suit the type and level of waste arising.
- 5.2.4 All residual waste must be disposed of in a licensed site and appropriate paperwork must be provided to the Council to demonstrate this.

5.3 Service Output 3: Collection and destruction of confidential waste paper

- 5.3.1 The Contractor must be able to demonstrate full compliance with BS EN 15713 - Code of Practice for the Secure Destruction of Confidential Materials.
- 5.3.2 A certificate of destruction must be issued to the Council upon completion for each unit/batch.
- 5.3.3 All paper should be recycled and a certificate of recycling should be issued to the Council on completion.
- 5.3.4 The Contractor shall enter into a confidentiality agreement regarding any paperwork etc.
- 5.3.5 The Contractor shall collect/empty/swap confidential waste containers from each property as and when requested.

5.4 Service Output 4: Potential additional services

Collection of WEEE (Waste Electronic & Electrical Equipment)

- 5.4.1 From time to time the Council has small quantities of WEEE which will need to be collected. All WEEE must be recycled as existing regulations permit.

Additional Collections

- 5.4.2 Where excess waste has been generated or additional collections are requested the Contractor should make arrangements within 48 hours and the additional charge levied should be at the same rate as usual collections.

Skip service

- 5.4.3 The Contractor shall provide a standard price for skip / FEL container hire services. There is no estimate for the amount of work which may be required but on an ad-hoc basis individual departments will need to hire in skips.
- 5.4.4 The majority of this waste will be inert construction and demolition wastes i.e. brick/concrete/gypsum products from minor project works. As such we would expect to see proposals which can offer an opportunity for this waste to be recovered.

Collection of food waste

- 5.4.5 Many of our sites include canteens and kitchen facilities which produce significant amounts of food waste. At present there is almost no segregation of this material and it goes in the general waste to landfill (or in some premises down the sink to sewage disposal via macerator units). As part of our commitment to sustainability we would like the Contractor to outline cost-effective proposals for the collection of source-separated food waste. Your proposal should detail operational plans to include as a minimum containment and collection frequency which can be offered and requirements for the client in terms of separation.
- 5.4.6 It is likely that, should any Council buildings wish to take any such proposal further this would be initiated as trial in one or two buildings before a full roll out. Please provide a price for collection and treatment with delivery to a suitable (Animal By-Products Regulation - ABPR compliant) facility of the Contractor's choosing.

Collection of hazardous waste

- 5.4.7 Where the Council requires hazardous waste to be removed by the Contractors it is to be accompanied by an appropriate COSHH material safety data sheet.
- 5.4.8 The discovery of any medical waste and hypodermic needles that may have been in contact with body fluids found on site must be reported to the Council who will then arrange for safe and legal disposal.

Waste Reduction

- 5.4.9 The Council is keen to reduce the amount of waste produced and would welcome additional support which Contractors may be able to provide for example provision of compost bins or support with employee awareness schemes.

6.1 Service Output 5: Waste collection procedures and containers

Procedures

- 6.1.1 All collections shall normally be made between the Council's core operating times which are 08:00hrs and 18:00hrs Monday to Friday only. The Contractor will not be required to collect waste and recycling on bank holidays as most Council buildings are closed. Where a scheduled collection falls on a bank holiday a catch-up collection will be required within 24 hrs. However, should it be a requirement of the property for out of hours collection visits due to the nature of the property such local arrangements shall not involve the Council in overtime payments to their own or Contractor's staff.
- 6.1.2 The Council shall be responsible for maintaining a clean and tidy area around the bins, in particular with regard to access and egress routes such as doorways, corridors, stairs and pedestrian and traffic routes through the site.
- 6.1.3 The Contractor shall be responsible for periodically monitoring the general state of the site working area for waste management and safety purposes. Where the Contractor identifies waste that is unsuitably stored for either environmental or safety reasons, this should be documented in any exception reporting.
- 6.1.4 The Contractor is not responsible for managing waste which is not deposited in the supplied containers unless a special arrangement has been made for excess waste as part of an additional collection. Where waste is deposited around the containers this must be reported to the Contract Administrator and it is the Council's responsibility to deal with the excess waste or request an additional pick up at the agreed call out rate.

- 6.1.5 The Contractor is to take all reasonable steps to avoid accidental spillages or discharges to the surface water drainage system. The Contractor shall provide a method statement showing what steps will be taken in the event of a spillage, which must include automatic notification of the Council.

Containers

- 6.1.6 All waste receptacles shall be provided by the Contractor and they must comply with the EN 840 Standard. All containers shall remain the property of the Contractor. The Contractor shall maintain containers to a reasonable condition. The Contractor must be able to replace or repair containers as necessary without delay or disruption to the service where the need for repair or replacement is through fair wear and tear at no expense to the Council.
- 6.1.7 All containers should be appropriate for the collection environment e.g. steel bins where there is fire risk, lockable containers where there is shared access and/or a requirement. The Contractor shall leave the container sites in a clean and tidy condition after each collection. No waste is to be left on site after collection and the containers must be locked, where applicable, and returned to the point of collection.
- 6.1.8 All initial containers should be provided to each site free of charge. However, Shropshire Council will agree to pay for replacement containers where required due to damage by a Council employee or where the container has been lost/stolen. This charge to be as Section C, Pricing Schedule of the Tender Response Document and must include delivery.

7.1 Service Output 6: Information management, monitoring and compliance

- 7.1.1 With the submission of each monthly (or other agreed period) invoice the Contractor shall provide (electronically) the following:
- Total Ltr of recycling by material and residual waste collected at each site/s
 - Total number of waste and recycling collections
 - Appropriate Waste Transfer Notes
 - Exceptions Report outlining any issues e.g. contamination
- 7.1.2 The Contractor must have the ability to submit electronic reporting of all weights within 7 days after the end of each calendar month (or other agreed period) along with their invoice.
- 7.1.3 It is important for the Council to have a comprehensive picture of the waste management service and to be able to demonstrate the full detail of this. As such the Council may undertake periodic audits and site visits of the later stages and final destinations of their waste. This allows the Contractor to demonstrate that steps have been taken to prevent the illegal treatment of waste.
- 7.1.4 The Contractor shall ensure that there is an auditable trail for the collection, transfer and recycling or disposal and confidential destruction of waste. This process should be mapped out in your proposal. The Contractor shall have a duty to co-operate with this process and supply any information requested by the Council.
- 7.1.5 Based on your current main arrangements please complete the table at Section C 4.2 of the Tender Response Document Waste Treatment Facilities (page 35).
- 7.1.6 The Contractor must provide the Council with copies of the following for all waste leaving the sites:
- Waste Carriers Licences

- Environmental Permits/Waste Management Licenses
- Waste Exemption Certificates
- Duty of Care Controlled Waste Transfer Notes
- Hazardous/Special Waste Consignment Notes

The Council should not incur any charges for the provision of these licences/certificates/notes these are to be at the Contractor's expense.

Collection Vehicles

- 7.1.7 The Contractor shall ensure that all vehicles used in delivery of the service are regularly serviced and safety checked daily by fully trained and certified drivers.
- 7.1.8 The Contractor shall be fully compliant with and operate his vehicles with due cognisance of the requirements of the Road Traffic Act 1988 (as amended) and the Road Vehicles (Construction and Use) Regulations 1986 (as amended).
- 7.1.9 All vehicles used in supplying the service must be fitted with audible reversing alarms; however, this does not preclude the need for the Contractor to identify areas where banksman may be required to ensure the safe reversing of his vehicles.
- 7.1.10 The Contractor shall survey the access/egress routes to all pick up points with a view to identifying hazards (e.g. pedestrian/vehicle interfaces) and developing a safe system of work (SSW) to reduce the risk from these identified hazards. The SSW must be issued to all drivers and a copy provided to the Contract Administrator for approval.
- 7.1.11 All vehicles used for collection should adhere to the latest EURO Standard for atmospheric emissions.

8.1 Service Output 7: Contract Management

- 8.1.1 The Contractor shall provide one main point of contact as a contract manager (the "Contract Manager"). This person should have the authority to resolve problems across all sites and locations. A suitable backup contact should also be appointed by the Contractor to cover for the Contract Manager if not available through sickness or leave.
- 8.1.2 The Contractor shall also provide the Council with a telephone number which will be answered at all times in case of emergencies.
- 8.1.3 No premium rate telephone numbers are to be used for the duration of this contract.
- 8.1.4 The Council will nominate a Contract Administrator (the "Client") to be the main point of contact at the Council and details for this person will be provided to the successful Contractor. The Council will also provide a different point of contact in times of absence e.g. during periods of holiday and sickness.
- 8.1.5 The Council will encourage a partnership approach to the management of the contract. As part of this, the Contract Manager and Contract Administrator shall be expected to have a formal meeting or telephone discussion at least monthly to ensure the continued success of the contract.

Please refer to the Tender Response document ensuring that all questions are fully completed within the document do not refer to attached documentation.



INSTRUCTIONS FOR TENDERING

**RMCB 038
THE PROVISION OF RECYCLING AND
WASTE COLLECTION SERVICES
INCLUDING THE DESTRUCTION OF
CONFIDENTIAL WASTE PAPER WHERE
APPLICABLE FROM SHROPSHIRE
COUNCIL OWNED/RUN PROPERTIES**

Shropshire Council Instructions for tendering

Contract Description/Specification:

It is Shropshire Council's intention to award this contract to one contractor. The contract shall comprise of the provision of recycling and residual waste collection services including destruction of confidential waste paper as and when required and where instructed from Shropshire Council owned/run properties throughout the County of Shropshire.

The fundamental objective of the contract is to provide an efficient waste management service capable of servicing Shropshire Council owned and run sites with a full recycling, residual and confidential paper destruction service. The Council places emphasis on the waste hierarchy with waste prevention and recycling above waste treatment and disposal.

In the first instance competitive tenders are being invited for an initial period of three years commencing 11th November 2021, thereafter the contract may be extended for a further two years subject to satisfactory performance during the contract year.

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1.0 Invitation to Tender

- 1.1** You are invited to tender for the provision of recycling and waste collection services including the destruction of confidential waste paper where applicable from Shropshire Council owned/run properties as detailed in the tender response document.

The contract will be for an initial period of three years commencing 11th November 2021, thereafter the contract may be extended for a further two years subject to satisfactory performance during the contract year.

- 1.2** Tenders are to be submitted in accordance with the Draft Contract and the instructions outlined within this document.

- 1.3** Tenders must be submitted in accordance with the following instructions. Tenders not complying in any particular way may be rejected by Shropshire Council (the Council) whose decision in the matter shall be final. Persons proposing to submit a Tender are advised to read the Invitation to Tender documentation carefully to ensure that they are fully familiar with the nature and extent of the obligations to be accepted by them if their Tender is accepted.

- 1.4** The Invitation to Tender documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Invitation to tender document other than on an “in confidence” basis to those who have a legitimate need to know or who they need to consult for the purpose of preparing the tender as further detailed in these Instructions for Tendering.

- 1.5** Tenderers shall not at any time release information concerning the invitation to tender and/or the tender documents for publication in the press or on radio, television, screen or any other medium without the prior consent of the Council.

- 1.6** The fact that a Tenderer has been invited to submit a tender does not necessarily mean that it has satisfied the Council regarding any matters raised in the pre-tender questionnaire submitted. The Council makes no representations regarding the Tenderer’s financial stability, technical competence or ability in any way to carry out the required services. The right to return to any matter raised in any pre-tender questionnaire submitted as part of the formal tender evaluation is hereby reserved by the Council.

- 1.7** The Invitation to Tender is issued on the basis that nothing contained in it shall constitute an inducement or incentive nor shall have in any other way persuaded a tenderer to submit a tender or enter into a Contract or any other contractual agreement.

- 1.8** Shropshire Council is purchasing on behalf of itself and any wholly owned local authority company or other entity that is deemed to be a contracting authority by virtue of the Council’s involvement.

2.0 Terms and Conditions

- 2.1** Every Tender received by the Council shall be deemed to have been made subject to the Draft Contract and these Instructions for Tendering unless the Council shall previously have expressly agreed in writing to the contrary.

2.2 The Tenderer is advised that in the event of their Tender being accepted by the Council, they will be required to undertake the required services.

3.0 Preparation of Tenders

3.1 Completing the Tender Response Document

3.1.1 Tenders should be submitted using the 'Tender Response Document' following the instructions given at the front of the document. The Tenderer's attention is specifically drawn to the date and time for receipt of Tenders and that no submission received after the closing time will be considered.

3.1.2 All documents requiring a signature must be signed;

- a) Where the Tenderer is an individual, by that individual;
- b) Where the Tenderer is a partnership, by two duly authorised partners;
- c) Where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for the purpose.

3.1.3 The Invitation to Tender Documents are and shall remain the property and copyright of the Council

3.2 Tender Preparation and Costs

3.2.1 It shall be the responsibility of Tenderers to obtain for themselves at their own expense all information necessary for the preparation of their Tender. No claim arising out of want of knowledge will be accepted. Any information supplied by the Council (whether in the Tender Documentation or otherwise) is supplied only for general guidance in the preparation of tenders.

3.2.2 Any Tenderer considering making the decision to enter into a contractual relationship with the Council must make an independent assessment of the Tender opportunity after making such investigation and taking such professional advice as it deems necessary.

3.2.3 Tenderers will be deemed for all purposes connected with their Tender submission where appropriate to have visited and inspected the Council, its assets, all the locations in respect of the delivery of the services/supplies/works and to have satisfied themselves sufficiently as to the nature, extent and character of the services supplies/works sought, and the human resources, materials, software, equipment, machinery, and other liabilities and other matters which will be required to perform the contract.

3.2.4 The Council will not be liable for any costs incurred by Tenderers in the preparation or presentation of their tenders.

3.2.5 Tenderers are required to complete all pricing schedules in the Invitation to tender documents. The terms "Nil" and "included" are not to be used but a zero or figures must be inserted against each item. Unit rates and prices must be quoted in pounds sterling and whole new pence.

3.2.6 It shall be the Tenderer's responsibility to ensure that all calculations and prices in the Tender documentation are correct at the time of submission.

- 3.2.7** The Tenderer is deemed to have made him/herself acquainted with the Council's requirements and tender accordingly. Should the Tenderer be in any doubt regarding the true meaning and intent of any element of the specification he is invited to have these fully resolved before submitting his Tender. No extras will be allowed for any loss or expense involved through any misunderstanding arising from his/her failure to comply with this requirement.
- 3.2.8** Any Tender error or discrepancy identified by the Council shall be drawn to the attention of the Tenderer who will be given the opportunity to correct, confirm or withdraw the Tender.
- 3.2.9** The Tender Documents must be treated as private and confidential. Tenderers should not disclose the fact that they have been invited to tender or release details of the Tender document other than on an In Confidence basis to those who have a legitimate need to know or whom they need to consult for the purpose of preparing the Tender.

3.3 Parent Company Guarantee

It is a condition of contract that if the tendering company is a subsidiary then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company if requested to do so by the Council. Where the direct parent company cannot provide an adequate guarantee in the opinion of the Council, the Council will look to another group or associate company, with adequate assets, to be the guarantor. In cases where the contract is with a Joint Venture Company (JVC) or a Special Purpose Vehicle (SPV) company, which may have two or more parent companies and which may not be adequately capitalised or have sufficient financial strength on its own to support the risk and obligations it has under the contract, 'joint and several' guarantees / indemnities from the parent companies of the JVC or SPV may be sought.

3.4 Warranty

The Tenderer warrants that all the information given in their Tender and if applicable their Request to Participate Questionnaire is true and accurate. The information provided will be deemed to form part of any contract formed under this contract.

The Tenderer warrants that none of their current Directors have been involved in liquidation or receivership or have any criminal convictions

4.0 Tender Submission

- 4.1** Tenders must be submitted strictly in accordance with the letter of instruction accompanying this Invitation to Tender. Tenders must be submitted by the deadline of **noon, 22nd Septemebr 2021**.
- 4.2** No unauthorised alteration or addition should be made to the Specification and Tender Response Document, or to any other component of the Tender document. If any such alteration is made, or if these instructions are not fully complied with, the Tender may be rejected.
- 4.3** Qualified tenders may be submitted, but the Council reserves the right not to accept any such tender. The Council's decision on whether or not a Tender is

acceptable will be final.

- 4.4 Tenderers should note that their Tender must remain open and valid and capable of acceptance for a period of at least 90 days.
- 4.5 Tenderers should note that Tenders and supporting documents must be written in English and that any subsequent contract, which may or may not be entered into, its formation, interpretation and performance, shall be subject to and in accordance with the laws of England and subject to the jurisdiction of the Courts of England and Wales.
- 4.6 Where Tender submissions are incomplete the Council reserves the right not to accept them.

5.0 Variant Bids

- 5.1 The Council is interested in alternative solutions which would provide and develop opportunities for savings in service costs, service improvement or other financial benefits. In particular, the Council wishes to encourage solutions which also deliver benefits and added value to the local economy, residents and the business community.
- 5.2 Tenderers may submit, at their discretion, a Tender offering a different approach to the project as a "Variant Bid". However, to permit comparability, at least one bid must be submitted strictly in accordance with the Invitation to Tender Documents (the "Compliant Tender"). Any Tender variant proposed must clearly state how it varies from the requirements of the Compliant Tender Documents, and be explicit in demonstrating the benefits that will accrue to the Council from adopting this approach. Tenderers will be required to identify which submission, in their view, demonstrates best value to the Council.
- 5.3 Variant Bids must contain sufficient financial and operational detail to allow any Variant Bid to be compared with the standard Tender, permitting its considerations in written form.

6.0 Tender Evaluation

- 6.1 The Tenderers may be called for interview to seek clarification of their tender or additional or supplemental information in relation to their tender. The presentations will not carry any weighting to the final score achieved by Tenderers, but will be used to clarify and moderate issues raised in the Tenderer's submissions. Any areas of discrepancy between submissions and information gained from the presentations will be reviewed and scores previously awarded will be amended if necessary.
- 6.2 If the Council suspects that there has been an error in the pricing of a Tender, the Council reserves the right to seek such clarification, as it considers necessary from the Tenderer in question.

7.0 Clarifications

- 7.1 Tenderers are responsible for clarifying any aspects of the tendering process and/or the Invitation to Tender documents in the manner described below.
- 7.2 If you are unsure of any section and require further clarification, please contact via our Delta Tenderbox.

7.3 Where appropriate, the Authorised Officer named above may direct the Tenderer to other officers to deal with the matter.

7.4 All queries should be raised as soon as possible (in writing), in any event not later than **15th September 2021**.

7.5 All information or responses that clarify or enhance the tendering process will be supplied to all Tenderers on a uniform basis (unless expressly stated otherwise). These responses shall have the full force of this Instruction and where appropriate the Conditions of Contract. If a Tenderer wishes the Council to treat a question as confidential this must be expressly stated. The Council will consider such requests and will seek to act fairly between the Tenderers, whilst meeting its public law and procurement duties in making its decision.

7.6 Except as directed in writing by the Authorised Officer, and confirmed in writing to a Tenderer, no agent or officer or elected Member (Councillor) of the Council has any express or implied authority to make any representation or give any explanation to Tenderers as to the meaning of any of the Tender Documents, or as to anything to be done or not to be done by a Tenderer or to give any warranties additional to those (if any) contained in the ITT or as to any other matter or thing so as to bind the Council in any way howsoever.

8.0 Continuation of the Procurement Process

8.1 The Council shall not be committed to any course of action as a result of:

- i) issuing this Invitation to Tender;
- ii) communicating with a Tenderer, a Tenderer's representative or agent in respect of this procurement exercise;
- iii) any other communication between the Council (whether directly or through its agents or representatives) and any other party.

8.2 The Council reserves the right at its absolute discretion to amend, add to or withdraw all, or any part of this Invitation to Tender at any time during the tendering stage of this procurement exercise.

8.3 At any time before the deadline for receipt of tender returns the Council may modify the Invitation to Tender by amendment. Any such amendment shall be numbered and dated and issued by the Council to all participating tenderers. In order to give prospective Tenderers reasonable time in which to take the amendment into account in preparing its Tender return, the Council may in its sole discretion, extend the deadline for submission of the tender returns. The Council reserves the right to amend, withdraw, terminate or suspend all or any part of this procurement process at any time at its sole discretion.

9.0 Confidentiality

9.1 All information supplied by the Council in connection with or in these Tender Documents shall be regarded as confidential to the Council unless the information is already within the public domain or subject to the provisions of the Freedom of Information Act 2000.

- 9.2** The Contract documents and publications are and shall remain the property of the Council and must be returned upon demand.
- 9.3** Tenderers shall ensure that each and every sub-contractor, consortium member and/or professional advisor to whom it discloses these papers complies with the terms and conditions of this ITT.
- 9.4** The contents of this Invitation to Tender are being made available by the Council on condition that:
- 9.4.1** Tenderers shall at all times treat the contents of the Invitation to tender and any related documents as confidential, save in so far as they are already in the public domain and Tenderers shall not, subject to the provisions relating to professional advisors, sub-contractors or other persons detailed below, disclose, copy, reproduce, distribute or pass any of the contents of the Invitation to tender to any other person at any time or allow any of these things to happen;
- 9.4.2** Tenderers shall not use any of the information contained in this Invitation to tender for any purpose other than for the purposes of submitting (or deciding whether to submit) the tender; and
- 9.4.3** Tenderers shall not undertake any publicity activity within any section of the media.
- 9.5** Tenderers may disclose, distribute or pass this Invitation to tender to their professional advisors, sub-contractors or to another person provided that:
- 9.5.1** this is done for the sole purpose of enabling an Invitation to tender to be submitted and the person receiving the Information undertakes in writing to keep the Invitation to Tender confidential on the same terms as if that person were the Tenderer; or
- 9.5.2** the Tenderer obtains the prior written consent of the Council in relation to such disclosure, distribution or passing of the Invitation to Tender; or
- 9.5.3** the disclosure is made for the sole purpose of obtaining legal advice from external lawyers in relation to the procurement or to any Contract(s) which may arise from it; or
- 9.5.4** the Tenderer is legally required to make such a disclosure.
- 9.6** The Council may disclose detailed information relating to the Invitation to Tender to its officers, employees, agents, professional advisors or Governmental organisations and the Council may make any of the Contracts and procurement documents available for private inspection by its officers, employees, agents, professional advisors, contracting authorities or Governmental organisations.
- 9.7 Transparency of Expenditure**
- Further to its obligations regarding transparency of expenditure, the Council may be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

10.0 Freedom of Information

- 10.1** Please note that from 1 January 2005 under the provisions of the Freedom of Information Act 2000, the public (included in this are private companies, journalists, etc.) have a general right of access to information held by public authorities. One of the consequences of those new statutory responsibilities is that information about your organisation, which Shropshire Council may receive from you during this tendering process may be subject to disclosure, in response to a request, unless one of the various statutory exemptions applies.
- 10.2** In certain circumstances, and in accordance with the Code of Practice issued under section 45 of the Act, Shropshire Council may consider it appropriate to ask you for your views as to the release of any information before we make a decision as to how to respond to a request. In dealing with requests for information under the Act, Shropshire Council has to comply with a strict timetable and it would therefore expect a timely response to any such consultation within five working days.
- 10.3** If, at any stage of this tendering process, you provide any information to Shropshire Council in the expectation that it will be held in confidence, then you must make it clear in your documentation as to the information to which you consider a duty of confidentiality applies. The use of blanket protective markings such as “commercial in confidence” will no longer be appropriate and a clear indication as to what material is to be considered confidential and why should be given.
- 10.4** Shropshire Council will not be able to accept that trivial information or information which by its very nature cannot be regarded as confidential should be subject to any obligation of confidence.
- 10.5** In certain circumstances where information has not been provided in confidence, Shropshire Council may still wish to consult with you as to the application of any other exemption such as that relating to disclosure that will prejudice the commercial interests of any party. However the decision as to what information will be disclosed will be reserved to Shropshire Council.

For guidance on this issue see: <http://www.ico.gov.uk>

11.0 Disqualification

- 11.1** The Council reserves the right to reject or disqualify a Tenderer's Tender submission where:
- 11.1.1** The tenderer fails to comply fully with the requirements of this Invitation to tender or is in breach of clause 23 of the Council's Draft Contract relating to Bribery and Corruption or is guilty of a serious or intentional or reckless misrepresentation in supplying any information required; or
- 11.1.2** The tenderer is guilty of serious or intentional or reckless misrepresentation in relation to its tender return and/or the procurement process.
- 11.1.3** The tenderer directly or indirectly canvasses any member, official or agent of the Council concerning the award of the contract or who directly or indirectly obtains or attempts to obtain information from any such person concerning any other Tender or proposed Tender for the services. The Canvassing Certificate must be completed and returned as instructed.

11.1.4 The Tenderer :

- a) Fixes or adjusts the amount of his Tender by or in accordance with any agreement or arrangements with any other person; or
- b) Communicates to any person other than the Council the amount or approximate amount of his proposed Tender (except where such disclosure is made in confidence in order to obtain quotations necessary for preparation of the Tender for insurance purposes); or
- c) Enters into an agreement or arrangement with any other person that he shall refrain from tendering or as to the amount of any Tender to be submitted; or
- d) Offers or agrees to pay or give or does pay or gives any sum of money, inducement or valuable consideration directly or indirectly to any person for doing or having done or causing or having caused to be done in relation to any Tender or proposed Tender for the services any act or omission.

11.2 Any disqualification will be without prejudice to any other civil remedies available to the Council and without prejudice to any criminal liability which such conduct by a Tenderer may attract. The Non-Collusive Tendering Certificate must be completed and returned as instructed.

11.3 The Council reserves the right to disqualify an Applicant from further participating in this procurement process where there is a change in the control or financial stability of the Tenderer at any point in the process up to award of a contract and such change of control or financial stability has a materially adverse effect on the Tenderer's financial viability or ability to otherwise meet the requirements of the procurement process.

12.0 E-Procurement

As part of its procurement strategy Shropshire Council is committed to the use of technology that can improve the efficiency of procurement. Successful Tenderers may be required to send or receive documents electronically. This may include purchase orders, acknowledgements, invoices, payment advices, or other procurement documentation. These will normally be in the Council's standard formats, but may be varied under some circumstances so as not to disadvantage small and medium suppliers.

13.0 Award of Contract

13.1 Award Criteria

The Award Criteria has been set out within the Tender Response Document accompanying this invitation to tender. The Council is not bound to accept the lowest or any Tender.

13.2 Award Notice

The Council will publish the name and addresses of the successful Tenderers where appropriate. The Contracting Authority reserves the right to pass all information regarding the outcome of the Tendering process to the Office of Fair

Trading to assist in the discharge of its duties. Additionally, the Council will adhere to the requirements of the Freedom of Information Act 2000 and Tenderers should note this statutory obligation.

13.3 Transparency of Expenditure

Further to its obligations regarding transparency of expenditure, the Council may also be required to publish information regarding tenders, contracts and expenditure to the general public, which could include the text of any such documentation, except for any information which is exempt from disclosure in accordance with the provisions of the Freedom of Information Act to be determined at the absolute discretion of the Council.

14.0 Value of Contract

Shropshire Council cannot give any guarantee in relation to the value of this contract.

15.0 Acceptance

15.1 Tenders must be submitted strictly in accordance with the terms of the Council's Invitation to Tender documentation and acceptance of the tender shall be conditional on compliance with this Tender Condition.

15.2 The Tender documentation including, the Draft Contract, the Tender Response document, these Instructions to Tender, together with the formal written acceptance by the Council will form a binding agreement between the Contractor and the Council.

15.3 The Tenderer shall be prepared to commence the provision of the supply and services on the start date of the contract arrangement being 11th November 2021.

16.0 Payment Terms

Tenderers should particularly note that the principles governing public procurement require that, as far as is reasonably possible, payments for Goods, Works or Services are made after the provision. Therefore any indication of a pricing strategy within a Tender which provides for substantial payments at the outset of the Contract will be examined carefully to decide whether or not a Tender in such form can be accepted. If in the opinion of the Council such substantial payments appear excessive in relation to the requirements of the Contract the Council reserves, without prejudice to any other right to reject any Tender it may have, the right to require the Tenderer to spread such proportion of the costs as are considered excessive over the duration of the Contract.

17.0 Liability of Council

17.1 The Council does not bind himself to accept the lowest or any tender.

17.2 The Council does not accept any responsibility for any pre-tender representations made by or on its behalf or for any other assumptions that Tenderers may have drawn or will draw from any pre-tender discussions.

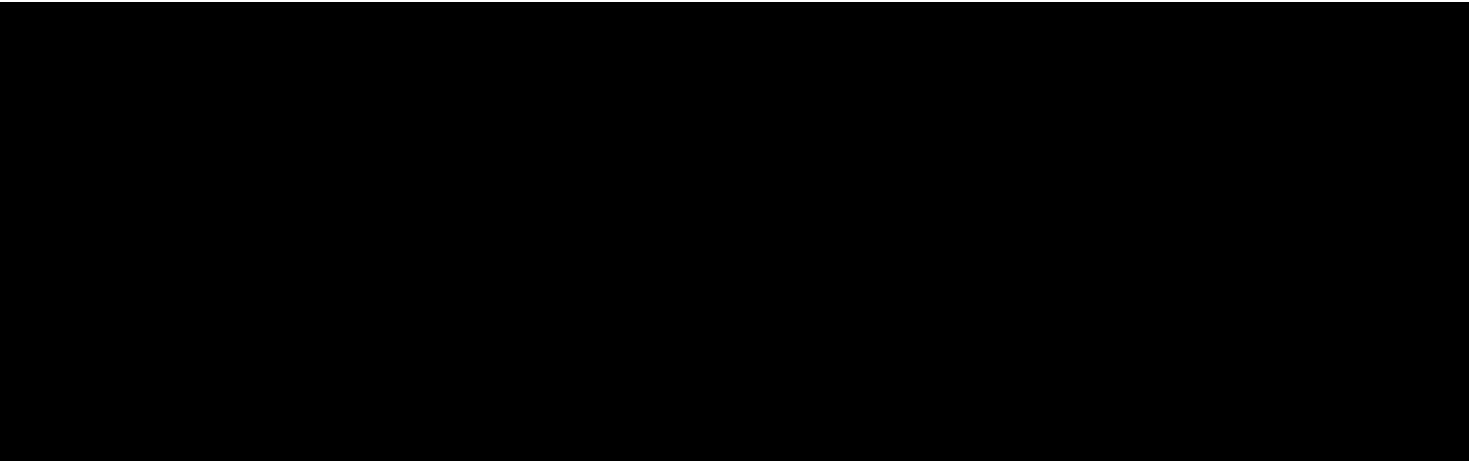
17.3 The Council shall not be liable to pay for any preparatory work or other work undertaken by the Tenderer for the purposes of, in connection with or incidental to this Invitation to Tender, or submission of its Tender response or any other

communication between the Council and any other party as a consequence of the issue of this Invitation to Tender.

- 17.4** The Council shall not be liable for any costs or expenses incurred by any Tenderer in connection with the preparation of a Tender return for this procurement exercise, its participation in this procurement whether this procurement is completed, abandoned or suspended.
- 17.5** Whilst the Tender Documents have been prepared in good faith, they do not purport to be comprehensive nor to have been formally verified. Neither the Council nor any of its staff, agents, elected Members, or advisers accepts any liability or responsibility for the adequacy, accuracy or completeness of any information given, nor do they make any representation or given any warranty, express or implied, with respect to the Tender Documents or any matter on which either of these is based (including, without limitation, any financial details contained within the Specification and Contract Documentation). Any liability is hereby expressly disclaimed save in the event of fraud, or in the event of specific warranties provided within the Contract Documentation.
- 18.0** The Contractor agrees that where requested in writing during the term of any Agreement for the supply Goods Works or Services it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council

19.0 **Declaration**

We, as acknowledged by the signature of our authorised representative, accept these Instructions to Tender as creating a contract between ourselves and the Council. We hereby acknowledge that any departure from the Instructions to Tender may cause financial loss to the Council.



Notes to this form:

Text highlighted in yellow is where details need to be inserted

Text highlighted in green are optional clauses which require consideration as to whether or not they should be retained.

THIS AGREEMENT is dated day of 20....

BETWEEN:

- (1) **SHROPSHIRE COUNCIL** whose office is at Shirehall, Abbey Foregate, Shrewsbury, Shropshire SY2 6ND ('the Council')
- (2) **[Insert name of Contractor]²** /a company incorporated in England and Wales under company number **[co. number]³** and whose registered office is at **[company address]⁴**] or [whose address is at **[insert the home address of the Contractor]⁵** ('the Contractor')

WHEREAS:

- (A) The Council wishes to receive the provision of recycling and waste collection services including the destruction of confidential waste paper from Shropshire Council owned/run properties.
- (B) The Contractor has the skills, background and experience in providing the Services required by the Council
- (C) The Contractor is willing to provide the Services as defined below and the Council is willing to appoint the Contractor to provide the Services in accordance with the provisions of this Agreement

NOW IT IS AGREED as follows:

1. Definitions

- 1.1 In this Agreement, the following words shall have the following meanings:

² Please complete full name of company providing the services as registered on Companies House or where the Contractor is an individual, please insert full name (including any middle names) of the individual

³ Insert company number where applicable. If the Contractor is an individual, the company number and the preceding words " a company registered.....to company address" may be deleted

⁴ Insert registered office address as shown on Companies House

⁵ Delete from "Or" and subsequent words in square brackets if the Contractor is not an individual

Agreed Prices	Means the Contractors rates as set out in Section C of the Tender Response Document and which shall remain firm for the Initial Term.
‘Agreement’	means this Agreement
‘Associated Person’	means in respect of the Council, a person, partnership, limited liability partnership or company (and company shall include a company which is a subsidiary, a holding company or a company that is a subsidiary of the ultimate holding company of that company) in which the Council has a shareholding or other ownership interest; OR any other body that substantially performs any of the functions of the Council that previously had been performed by the Council. .
‘Authorised Officer/Contract Administrator’	means the representative appointed by the Council to manage the Contract on its behalf
‘Best Practice’	means in accordance with the best practice within the industry of the Contractor
‘Bribery Act’	the Bribery Act 2010 and any subordinate legislation made under that Act from time to time together with any guidance or codes of practice issued by the relevant government department concerning the legislation.
‘Commencement Date’	11 th November, 2021
‘Commercially Sensitive Information’	comprises the information of a commercially sensitive nature relating to the Contractor, its Intellectual Property Rights or its business which the Contractor has indicated to the Council in writing that, if disclosed by the Council, would cause the Contractor significant commercial disadvantage or material financial loss;
‘Confidential Information’	any information, however it is conveyed, that relates to the business, affairs, developments, trade secrets, know-how, personnel and suppliers of the Council or the Contractor, including Intellectual Property Rights, together with all information derived from the above, and any other information

clearly designated as being confidential (whether or not it is marked as "confidential") or which ought reasonably to be considered to be confidential, including all Personal Data and the Commercially Sensitive Information;

‘Consumables’

means all items of equipment, materials or components that have to be replaced on a regular basis

‘Contract Documents’

means all of the documents annexed to, contained and referred to within this Agreement

‘Contractor’

means the party named above and includes its employees, servants and agents paid or unpaid acting on its behalf

‘Contractor Personnel’

all employees, agents, consultants and contractors of the Contractor and/or of any Sub-contractor paid or unpaid;

‘Contractor’s Representative’

the representative appointed by the Contractor to manage the contract on its behalf

Data Controller

shall have the meaning given to the term "controller" as set out in the Data Protection Legislation

Data Loss Event

any event that results, or may result, in unauthorised access to Personal Data held by the Processor under this Agreement, and/or actual or potential loss and/or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach.;

Data Protection Impact Assessment:

an assessment by the Data Controller of the impact of the envisaged processing on the protection of Personal Data.

‘Data Processor’

is as defined in the Data Protection Legislation

‘Data Protection Legislation’

all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory

	authority and applicable to a party
Data Protection Officer	is as defined in the Data Protection Legislation
Data Subject	is as defined in the Data Protection Legislation
Data Subject Request	a request made by, or on behalf of, a Data Subject in accordance with rights granted pursuant to the Data Protection Legislation to access their Personal Data.
Domestic Law	means the Law of the United Kingdom or a part of the United Kingdom
DPA 2018	Data Protection Act 2018
‘EIR’	means the Environmental Information Regulations 2004 (as may be amended from time to time.)
‘Employment Checks’	means the pre-appointment checks that are required by law and applicable guidance, including without limitation, verification of identity checks, right to work checks, registration and qualification checks, employment history and reference checks, disclosure and barring checks
‘Estimated [Annual] Contract Value’	means the estimated [annual] contract value relating to this Agreement ⁶
‘Exempt Information’	means any information or class of information (including but not limited to any document, report, Agreement or other material containing information) relating to this Agreement or otherwise relating to the parties to this Agreement which potentially falls within an exemption to FOIA (as set out therein)
“Expiry Date”	<p>Shall be the later of either:</p> <p>i) the Initial Expiry Date; or</p> <p>ii) the last day of any agreed extension period further to clause 2 below;</p> <p>or</p> <p>such other date as this Agreement is terminated in accordance</p>

⁶ Delete this definition if there is no estimated annual contract value

with its terms]

‘Fees’ the Agreed Prices as set out in Section C of the Tender Response Document and includes all expenses, materials (including Consumables), labour, plant, equipment, handling of materials and plant, tools and appliances, travel time and mileage to and from Properties and all other things necessary for the supply of the required services unless where specifically stated otherwise

‘FOIA’ means the Freedom of Information Act 2000 and all subsequent regulations made under this or any superseding or amending enactment and regulations; any words and expressions defined in the FOIA shall have the same meaning in this clause

‘FOIA notice’ means a decision notice, enforcement notice and/or an information notice issued by the Information Commissioner.

‘Force Majeure Event’ means any circumstance not within a party's reasonable control including, without limitation:

- a) acts of God, flood, drought, earthquake or other natural disaster;
- b) epidemic or pandemic;
- c) terrorist attack, civil war, civil commotion or riots, war, threat of or preparation for war, armed conflict, imposition of sanctions, embargo, or breaking off of diplomatic relations;
- d) nuclear, chemical or biological contamination or sonic boom;
- e) any law or any action taken by a government or public authority, including without limitation imposing an export or import restriction, quota or prohibition, or failing to grant a necessary licence or consent;
- f) collapse of buildings, fire, explosion or accident; and
- g) any labour or trade dispute, strikes, industrial action or

lockouts (other than in each case by the party seeking to rely on clause, or companies in the same group as that party);

h) non-performance by suppliers or subcontractors (other than by companies in the same group as the party seeking to rely on clause 35 (Force Majeure); and

i) interruption or failure of utility service.

GDPR Means the General Data Protection Regulation 2016/679 as they apply and are incorporated into UK law by Domestic Law

‘Initial Term’⁷ means a period of three years commencing on the Commencement Date and expiring on the Initial Expiry Date

‘Initial Expiry Date’ means 31st August 2024

‘Intellectual Property Rights’ means all patents, registered and unregistered designs, copyright, trade marks, know-how and all other forms of intellectual property wherever in the world enforceable

Law means any law, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, bye-law, enforceable right within the meaning of Section 2 of the European Communities Act 1972, regulation, order, regulatory policy, mandatory guidance or code of practice, judgment of a relevant court of law, or directives or requirements with which the Contractor is bound to comply;

‘Option to Extend’ means the Council's option to extend the Initial Term by a period of up to two years commencing from and including the date following the Initial Expiry Date

‘Order’ means an official order placed by the Council [*/Properties*]⁸ to the Contractor for the supply of Services in accordance with the terms of this Agreement

‘Outcomes’ means the targets, results or objectives as specified in the

⁷ Delete this definition if the contract is for a fixed term and not capable of extension

⁸ If this definition is being used, please delete reference to properties if not applicable

	Specification
‘Parties’	the Contractor and the Council and ‘Party’ shall mean either one of them
‘Personal Data’	shall have the same meaning as set out in the Data Protection Legislation
‘Personal Data Breach’	means: anything which constitutes a "personal data breach" as defined in the Data Protection Legislation;
‘Processor Personnel’	means all directors, officers, employees, agents, consultants and contractors of the Data Processor and/or of any Sub-Processor engaged in the performance of its obligations under this Agreement
‘Prohibited Act’	<p>the following constitute Prohibited Acts:</p> <p>(a) to directly or indirectly offer, promise or give any person working for or engaged by the Council a financial or other advantage to:</p> <ul style="list-style-type: none"> (i) induce that person to perform improperly a relevant function or activity; or (ii) reward that person for improper performance of a relevant function or activity; <p>(b) to directly or indirectly request, agree to receive or accept any financial or other advantage as an inducement or a reward for improper performance of a relevant function or activity in connection with this Agreement;</p> <p>(c) committing any offence:</p> <ul style="list-style-type: none"> (i) under the Bribery Act; (ii) under legislation creating offences concerning fraudulent acts; (iii) at common law concerning fraudulent acts relating to this Agreement or any other contract with the Council; or <p>(d) defrauding, attempting to defraud or conspiring to defraud the Council.</p>
‘Project Materials’	means all reports, the Specification, documents, papers, information, data, disks, drawings, samples, patterns, in

whatever form, medium or format and wherever such Project Materials are located or stored together with all copies of Project Materials⁹

‘Property/Properties’¹⁰	means the sites where the Services will be delivered/carried out as listed in Annex A of this Agreement
‘PSG’	Is Property Services Group being the Council's service area responsible for maintenance of its properties and buildings
‘Public body’	as defined in the FOIA 2000
‘Receiving Party’	means a party to this Agreement to whom a Request for Information is made under FOIA, and who thereafter has overall conduct of the request and any response
‘Regulatory Bodies’	those government departments and regulatory, statutory and other entities, committees and bodies which, whether under statute, rules, regulations, codes of practice or otherwise, are entitled to regulate, investigate, or influence the matters dealt with in this Agreement or any other affairs of the Council and "Regulatory Body" shall be construed accordingly;
‘Relevant Transfer’	means a relevant transfer for the purposes of TUPE
‘Report’	means a formal Report to be prepared by the Contractor recording and evaluating the Outcomes together with recommendations for future actions
‘Request for Information’	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
‘Review’	means a formal review of the progress of the Services and the achievement of the Outcomes
‘Services’	means the provision of recycling and waste collection services as more specifically referred to in the Specification
‘Specification’	The specific description of the Services as set out in Schedule 1 annexed to this Agreement
‘Sub-Contract’	any contract or agreement, or proposed contract or agreement

⁹ Delete this definition if no Project Materials are being supplied

¹⁰ Delete this definition if the services are being delivered to one site only

between the Contractor and any third party whereby that third party agrees to provide to the Contractor the Services or any part thereof, or facilities or services necessary for the provision of the Services or any part of the Services, or necessary for the management, direction or control of the Services or any part of thereof.

‘Sub-Contractor’

the third parties that enter into a Sub-Contract with the Contractor.

Sub-processor

any third party appointed to process Personal Data on behalf of the Contractor related to this Agreement.

‘Tender/Tender

means the tender dated [.....] ¹¹ submitted by the Contractor

Response Document’

and accepted by the Council annexed to this Agreement in Appendix B

‘Term’

means the period commencing on the Commencement Date and expiring on the Expiry Date

‘TUPE’

means the Transfer of Undertakings (Protection of Employment) Regulations 2006

‘Valid Invoice’

Means an invoice submitted by the Contractor which must contain the following detail required by the Council to enable payment as specified in clause 9 of this Agreement:

1) invoices to be addressed to....., Shropshire Council at the address referred to above; and

2) submitted on the Contractor’s business letterhead including the Contractors name and address, and VAT registration number (where applicable); and

3) site location, property number and address to which payment relates; and

4) the Council’s Official Order Number

Together with the additional information required by clause 9.2 of this Agreement as applicable

¹¹ Where the tender is being annexed to this Agreement, please insert date of tender

‘Working Day’ any day other than a Saturday, Sunday or public holiday in England and Wales.

1.2 Interpretation

In this Agreement unless the context otherwise requires:

- 1.2.1 words importing any gender include every gender
- 1.2.2 words importing the singular number include the plural number and vice versa
- 1.2.3 A person includes an individual, firm, company, corporation, unincorporated body of persons, or any state or any agency of any person.
- 1.2.4 A reference to a company shall include any company, corporation or other body corporate, wherever and however incorporated or established.
- 1.2.5 A reference to a holding company or subsidiary means a holding company or subsidiary as defined in section 1159 of the Companies Act 2006.

In the case of a limited liability partnership which is a subsidiary of a company or another limited liability partnership, section 1159 of the Companies Act 2006 shall be amended so that:

- (i) references in sub-sections 1159(1)(a) and (c) to voting rights are to the members' rights to vote on all or substantially all matters which are decided by a vote of the members of the limited liability partnership; and
 - (ii) the reference in sub-section 1159(1)(b) to the right to appoint or remove a majority of its board of directors is to the right to appoint or remove members holding a majority of the voting rights.
- 1.2.6 references to numbered clauses and schedules are references to the relevant clause in or schedule to this Agreement
- 1.2.7 reference in any schedule to this Agreement to numbered paragraphs relate to the numbered paragraphs of that schedule
- 1.2.8 any obligation on any Party not to do or omit to do anything is to include an obligation not to allow that thing to be done or omitted to be done
- 1.2.9 the headings to the clauses, schedules and paragraphs of this Agreement are not to affect the interpretation
- 1.2.10 A reference to a statute or statutory provision is a reference to it as it is in force for the time being, taking account of any amendment, extension, or re-enactment and includes any subordinate legislation for the time being in force made under it.
- 1.2.11 where the word ‘including’ is used in this Agreement, it shall be understood as meaning ‘including without limitation’

1.2.12 Where any statement is qualified by the expression so far as the Contractor is aware or to the Contractor's knowledge or any similar expression, that statement shall be deemed to include an additional statement that it has been made after due and careful enquiry.

1.2.13 A reference to writing or written does not include e-mail, unless otherwise specifically agreed.

2. Term:

2.1 It is agreed between the Parties that this Agreement will be for the Initial Term commencing on the Commencement Date and ending on the Initial Expiry Date.

2.2 It is further agreed between the Parties that the Council may exercise its Option to Extend this Agreement at the expiry of the Initial Term for a further period of up to two years commencing on 1st September 2024.

2.3 If the Council decides to exercise its Option to Extend the Initial Term it shall notify the Contractor in writing at least 3 months in advance of the expiry date of the Initial Term. Where the Parties agree an extension of the Initial Term the provisions of this Agreement between the Council and the Contractor shall be the terms to be applied to the extended Agreement period, save for any agreed variations to such terms and/or to the Fees which shall be in writing and signed by the Parties in advance of the commencement of any agreed extension period.

2.4 If the Council decides that it does not wish to exercise its Option to Extend then this Agreement shall terminate on the Initial Expiry Date and the provisions of clause 39 (Consequences of Termination) shall apply

3. Estimated [Annual]¹² Contract Value: [Not Used]¹³

3.1 The Estimated [Annual] Contract value of the Standing Order Arrangement is

[.....]¹⁴ [(insert figure represented in words)]¹⁵

3.2 The Parties agree that the Council is not bound by the Estimated [Annual] Contract Value and that there are no maximum or minimum limits to the Orders that may be placed by the Council to the Contractor

3.3 The Parties agree that the Council shall not give any guarantee as to the likely values to be seen under the terms of this Agreement

¹² Delete reference to annual if no annual breakdown provided

¹³ If there is no Estimated Value, retain the words Not Used and delete subsequent text from sub-clause 3.1-3.3. If an Estimated Value is to be given, delete the words "Not Used" and retain sub-clause 3.1 to 3.3

¹⁴ Insert sum represented in figures if retaining this sub-clause

¹⁵ Insert figure represented in words if retaining this sub-clause

4. Services

4.1 The Contractor shall provide the Services to the Council in consideration for the Council paying the Fee(s) to the Contractor, subject to the provisions of this Agreement

4.2 The Contractor shall provide the Services in such places and locations as set out in Schedule 3 (Properties) (or as agreed by the Parties from time to time)

4.3 The Contractor shall use its best endeavours to complete/deliver the Services by the [Expiry Date] or [dates specified in the Specification] or [dates agreed by the Parties]¹⁶

4.4 Issue of Orders¹⁷:

4.4.1 During the Term the Council/Properties may from time to time instruct the Contractor to carry out the Services in accordance with the Specification by issuing an Order to the Contractor in writing.

4.4.2 Each Order shall specify:

4.4.2.1 []

4.4.2.2 The Services required;

4.4.2.3 The time periods for completion;

4.4.2.4 The relevant Agreed Prices applicable

4.4.3 The Council gives no guarantee as to the number, nature or volume of Services or Orders issued under this Agreement and reserves the right to appoint alternative or additional contractors to carry out the Services or to provide the Services itself.

4.5 The Services shall only be performed/delivered by the Contractor unless otherwise agreed in writing between the Parties

4.6 The Contractor shall provide the Services in accordance with the Specification with all due skill, care and diligence and in accordance with good industry practice. The Council reserves the right to reject work at the Contractors expense if the Council deems it to be unacceptable and not in accordance with good industry practice and the Specification.

4.7 The Contractor shall provide the Services in accordance with all current and relevant statutory provisions, regulations or other legislation from time to time in force relating to the provision of the Services

¹⁶ Delete text in square brackets as applicable

¹⁷ Delete if this contract is not dependent on the issue of orders

- 4.8** The Contractor shall during the Term ensure that every person employed by the Contractor in the provision of the Services is properly trained and instructed with regard to his/her tasks in relation to the Services
- 4.9** The Contractor shall carry out its own risk assessments relevant to the Services.
- 4.10** The Contractor shall have a written procedure for dealing with complaints about the Services in accordance with clause 33 (Complaints) hereof
- 4.11** before the Contractor engages or employs any person in the provision of the Services, or in any activity related to, or connected with, the provision of the Services, the Contractor must without limitation, complete the Employment Checks [and any other checks required by the Disclosure and Barring Service]¹⁸
- 4.12** Prior to the engagement by the Contractor of any staff or sub-contractor engaged to provide any part of the Services where such individuals will have contact with children up to the age of eighteen years old or where the performance of the Services may involve contact with vulnerable adults (as defined in the Safeguarding Vulnerable Groups Act 2006) the Contractor shall procure in respect of all staff or potential staff or other persons intended to perform any part of the Services:
- 4.12.1** that each person being considered for engagement be questioned as to whether he/she has any convictions; and
- 4.12.2** that the results of a Disclosure and Barring Service (DBS) check of the most extensive available kind is obtained in accordance with Part V of the Police Act 1997 (as amended) and that each DBS check should include a search of the list held pursuant to the Protection of Children Act 1999 where the performance of the Service may involve contact with children and/or Safeguarding Vulnerable Groups Act 2006 where the performance of the Service may involve contact with vulnerable adults.
- 4.12.3** that a copy of the DBS check results are notified to the Council¹⁹
- 4.13** The Parties agree that there shall be, on dates to be agreed, regular informal reviews of the progress of the development of the Services between the Contractor and the Council to ensure that the [Services are being delivered as required] [or] [that Outcomes are being achieved].²⁰

¹⁸ Delete text highlighted in green if not required

¹⁹ If no safeguarding requirements are expected as part of the delivery of the services, please delete text highlighted in green and replace with the words "not used" against sub-clause number 4.11

²⁰ Delete the text of this sub-clause 4.12 if there are no reviews and no Outcomes to be met and replace with the words "not used"

- 4.14** In the event that an informal review reveals that [the Services are not being delivered as required] [or] [that Outcomes²¹ are not being met], a formal Review meeting shall take place between the Parties upon 14 days written notice being given to the Contractor by the Council²²
- 4.15** The Review meeting shall record in writing any amendments to the [Services/Outcomes²³] agreed between the Council and the Contractor.²⁴
- 4.16** Where following a Review, the Council acting reasonably determines that the Contractor has not [delivered the Services as required] [or] [met the Outcomes²⁵] the Council may:
- 4.16.1** further to clause 28.1 of this Agreement serve the Contractor with an Improvement (Amber) Notice (“Notice”) within one month of the Review meeting specifying which [areas of the Services have not been delivered as required] [or] [which of the Outcomes²⁶ it considers that the Contractor has not met or failed to achieve] and giving the Contractor not less than 14 days from the date of the Notice to remedy the failure within the time period specified in the Notice (‘rectification period’)
- 4.16.2** if after the expiry of the rectification period the Contractor has failed to remedy the failure specified in the Notice then, depending on the severity of the failings of the Contractor, the Council may, in its absolute discretion, continue to serve further notices in accordance with the procedures set out in clauses 28.2 – 28.4 or consider the Contractor’s non-compliance with the Notice to be a material breach of the terms of this Agreement to the extent that the Agreement may be terminated in accordance with the provisions contained in clause 38 (Termination) herein
- 4.16.3** The Council shall take into account any verbal or written representations made by the Contractor before proceeding to take any action to terminate this Agreement pursuant to this clause.²⁷
- 4.17** Within [twelve] ²⁸weeks of the last date of delivery of the Service and prior to the

²¹ Delete as applicable

²² Delete the text of this sub-clause 4.13 if there are no reviews and no Outcomes to be met and replace with the words “not used”

²³ Delete as applicable

²⁴ Delete the text of this sub-clause 4.14 if there are no reviews and no Outcomes to be met and replace with the words “not used”

²⁵ Delete as applicable

²⁶ Delete as applicable

²⁷ Delete the text of this sub-clause 4.15 if there are no reviews and no Outcomes to be met and replace with the words “not used”

²⁸ Insert appropriate timescale for when report should be delivered if using this sub-clause

Expiry Date, the Contractor shall prepare and deliver to the Council a satisfactory Report recording the Outcomes together with its recommendations following the delivery of the Service.²⁹

5. Use of Facilities: Not Used

6 Insurance

- 6.1** The Contractor shall effect and maintain with a reputable insurance company a policy or policies of insurance providing an adequate level of cover, or in accordance with any legal requirement for the time being in force, in respect of all legal liability which may be incurred by the Contractor, arising out of the Contractor's performance of this Agreement, including death or personal injury, loss of or damage to property or any other loss, and unless otherwise agreed with the Council such policy or policies of Public Liability and Employers Liability insurance shall provide for a minimum indemnity limit of £5,000,000 (FIVE MILLION POUNDS) for each and every claim.
- 6.2** NOT USED
- 6.2** The Contractor shall hold and maintain the insurances required under this Agreement for a minimum of 6 years following the expiration or earlier termination of this Agreement
- 6.3** The Contractor warrants that it has complied with this clause 6 and shall provide the Council with certified copies of the relevant policy documents (including any warranties or exclusions) together with receipts or other evidence of payment of the latest premiums due under those policies prior to the commencement of this Agreement and annually thereafter during the Term. If, for whatever reason, the Contractor fails to give effect to and maintain the insurances required under this clause 6, the Council may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Contractor.
- 6.4** The Contractor shall:
- (a) do nothing to invalidate any insurance policy
 - (b) notify the Council if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change
- 6.5** For the avoidance of doubt, the terms of any insurance or the amount of cover shall not relieve the Contractor of any liabilities under this Agreement.
- 6.6** Where the minimum limit of indemnity required in relation to any of the insurances is specified as being "in the aggregate":

²⁹ Delete the text of this sub-clause 4.16 if no report is required and replace with the words "not used"

6.6.1 if a claim or claims which do not relate to this Agreement are notified to the insurers which, given the nature of the allegations and/or the quantum claimed by the third party(ies), is likely to result in a claim or claims being paid by the insurers which could reduce the level of cover available below that minimum, the Contractor shall immediately submit to the Council:

- (i) details of the policy concerned; and
- (ii) its proposed solution for maintaining the minimum limit of indemnity specified; and

6.6.2 if and to the extent that the level of insurance cover available falls below that minimum because a claim or claims which do not relate to this Agreement are paid by insurers, the Contractor shall:

- (i) ensure that the insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified for claims relating to this Agreement; or
- (ii) if the Contractor is or has reason to believe that it will be unable to ensure that insurance cover is reinstated to maintain at all times the minimum limit of indemnity specified, immediately submit to the Council full details of the policy concerned and its proposed solution for maintaining the minimum limit of indemnity specified.

7 Indemnity

7.1 The Contractor shall fully indemnify the Council against all liabilities, costs, expenses, damages losses and breach of its statutory duties or breach of an obligation under the Data Protection Legislation (including any direct, indirect or consequential losses, loss of profit, loss of reputation and all interest, penalties and legal and other reasonable professional costs and expenses) suffered or incurred by the Council arising out of or in connection with:

- (a) The performance, defective performance or otherwise of this Agreement by the Contractor or the Contractor Personnel
- (b) Any claim made against the Council for actual or alleged infringement of a third party's Intellectual Property Rights arising out of, or in connection with the provision of the Services
- (c) Any claim made against the Council by a third party arising out of, or in connection with, the supply of the Services, to the extent that such claim arises out of the breach, negligent performance or failure or delay in performance of this Agreement by the Contractor or the Contractor Personnel; and
- (d) Any claim made against the Council by a third party for death, personal injury or damage to property arising out of, or in connection with the delivery of

the Services and performance of this Agreement to the extent that the defective performance is attributable to the acts or omissions of the Contractor or the Contractor Personnel

7.2 The Council shall indemnify the Contractor against all reasonable claims, costs and expenses which the Contractor may incur and which arise, directly from the Council's breach of any of its obligations under this Agreement.

7.3 Nothing in this Agreement shall limit or exclude the liability of either Party for:

- (a) death or personal injury resulting from negligence; or
- (b) fraud or fraudulent misrepresentation; or
- (c) the indemnities given in this clause 7

[8. Fee rates based on time spent]

Where the Fees calculated on the amount of time spent by the Contractor's Personnel, the following applies:

8.1 a 'day' will mean 7.4 hours. This will include the time spent in travelling to and from the place where the Services are performed. Where the work carried out in performing the Services exceeds the period of 7.4 hours, that period shall be charged at the pro-rated rate for a day;

8.2 where the Fees are based on an hourly rate, any time spent which is less than an hour is charged on a pro-rated basis.

8.3 For the avoidance of doubt, the Contractor shall only charge the Council the Fees based on the actual time spent on-site carrying out the Services. The Contractor shall not charge any Fees with respect to mileage and travel time to and from the Properties unless expressly permitted by the Council in writing and in advance]³⁰

9. Payment

9.1 Payment of the Fee(s) shall be made by the Council to the Contractor within 30 days of receipt of an undisputed Valid Invoice **monthly in arrears.**

9.2 To assist payment of a Valid Invoice the Contractor shall also, where possible provide PSG with the following additional information:

- 9.2.1** Name of officer that placed the Order for works;
- 9.2.2** Date and time of when the Order was placed;
- 9.2.3** Date of visit;
- 9.2.4** Times of arrival and departure from the site;
- 9.2.5** Where applicable, sub-contractors details;
- 9.2.6** property number;

³⁰ Delete this clause if Fees are not based on an hourly/daily rate

- 9.2.7 full property name and address;
- 9.2.8 purchase order number; and
- 9.2.8 be accompanied by the relevant collection report.
- 9.3 The Parties agree that where the Contractor fails to submit a Valid Invoice, the Council shall be entitled to withhold payment until the Contractor submits the information required by the Council.
- 9.4 In the event of late payment relating to a Valid Invoice, interest thereon shall be charged at the prevailing statutory rate further to the Late Payment of Commercial Debts (Interest) Act 1998 above the National Westminster Bank base rate.. Such interest shall accrue daily from the due date until actual payment of the overdue amount, whether before or after Judgment.
- 9.5 The Contractor shall not be entitled to vary the Fee(s) during the Initial Term of this Agreement unless with the prior written consent of the Council.
- 9.6 The Contractor shall not charge, and the Council shall not be liable, for any expenses, charges, costs, fees except the Fee(s) as set out in this Agreement. [For the avoidance of doubt, the Contractor shall only charge the Council the Fees based on the actual time spent on-site carrying out the Services. The Contractor shall not charge any Fees with respect to mileage and travel time to and from the Properties unless expressly permitted by the Council in writing and in advance]³¹
- 9.7 All amounts stated are exclusive of VAT which will be charged in addition at the rate in force at the time the Council is required to make payment
- 9.8 Unless otherwise agreed in writing by the Council, the Contractor will pay any of its appointed sub-contractors within the time period specified in the Sub-Contract but in any event no later than 30 days from receipt of an undisputed invoice.

10. The Council's Obligations

To enable the Contractor to perform its obligations under this Agreement the Council shall:

- 10.1 Co-operate with the Contractor and ensure that the Council's staff and agents co-operate with and assist the Contractor as is reasonable and appropriate
- 10.2 Provide the Contractor with any information reasonably required by the Contractor;
- 10.3 Comply with such other requirements as may be otherwise agreed between the parties.

³¹ Delete this wording if clause 8 is retained

- 10.4** Not Used
- 10.5** Save as provided in this Agreement, no representations, warranties or conditions are given or assumed by the Council in respect of any information which is provided to the Contractor by the Council and any such representations, warranties or conditions are excluded, save to the extent that such exclusion is prohibited by law.
- 11. Authorised Officer and Contractor Representative:**
- 11.1** The Authorised Officer shall be appointed by the Council to act in the name of the Council for the purposes of the contract evidenced by this Agreement.
- 11.2** The Contractor shall appoint a Contractor Representative to act in the name of the Contractor for the purposes of the contract evidenced by this Agreement
- 11.3** The Parties shall notify each other in writing of any replacement Authorised Officer or Contractor Representative or if any person ceases to be either the Authorised Officer or Contractor Representative.
- 11.4** The Authorised Officer shall monitor on behalf of the Council, the provision of the Services supplied by the Contractor and act as liaison officer with the Contractor's Representative in respect of the operation of the Services. Any issues raised by the Authorised Officer with regard to the delivery of the Services shall in the first instance be addressed and dealt with by the Contractor's Representative on the Contractor's behalf.
- 12 Intellectual Property Rights**
- 12.1** In the absence of prior written agreement by the Council to the contrary, all Intellectual Property created by the Contractor or any employee, agent or subcontractor of the Contractor:
- 12.1.1** in the course of performing the Services; or
- 12.1.2** exclusively for the purpose of performing the Services,
- shall vest in the Council on creation.
- 12.2** Unless stated expressly in writing in this Agreement, neither Party will acquire any ownership interest in or licence of the other's Intellectual Property by virtue of this Agreement
- 12.3** The Contractor shall indemnify the Council against all claims, demands, actions, costs, expenses (including legal costs and disbursements on a solicitor and client basis), losses and damages arising from or incurred by reason of any infringement or alleged infringement (including the defence of such alleged infringement) of any Intellectual Property Right by the availability of the Services, except to the extent that they have been caused by or contributed to by the

Council's acts or omissions.

12.4 This provision shall survive the expiration or termination of the Agreement.

Option (A)³²

13. Confidentiality

13.1 The Contractor shall keep secret and shall not divulge to any third party (except sub-contractors accepting a like obligation of secrecy, and then only to the extent necessary for the performance of the sub-agreement) all information given by the Council in connection with the Agreement or which becomes known to the Contractor through his performance of the Agreement or use the same other than for the purpose of executing the Agreement.

13.3 The Contractor shall not mention the Council's name in connection with the Agreement or disclose the existence of the Agreement in any publicity material or other similar communication to third parties without the Council's prior consent in writing.³³ NOT USED

13.4 The Contractor will keep confidential any information it becomes aware of by reason of the operation of this Agreement.

13.5 Except to the extent set out in this clause or where disclosure is expressly permitted elsewhere in this Agreement, each party shall:

13.5.1 treat the other party's Confidential Information as confidential; and

13.5.2 not disclose the other party's Confidential Information to any other person without the owner's prior written consent

13.6 Clause 13.5 shall not apply to the extent that:

13.6.1 such disclosure is a requirement of law placed upon the party making the disclosure, including any requirements for disclosure under the Audit Commission Act 1998 or under the FOIA or the Environmental Information Regulations pursuant to clause 25 regarding Freedom of Information;

13.6.2 such information was in the possession of the party making the disclosure without obligation of confidentiality prior to its disclosure by the information owner;

13.6.3 such information was obtained from a third party without obligation of confidentiality;

³² Delete Option (A) Confidentiality if using Option (B) version and vice versa

³³ Please delete text highlighted in green and replace with words "not used" if alternative optional clause relating to Publicity is to be used instead

- 13.6.4** such information was already in the public domain at the time of disclosure otherwise than by a breach of this Agreement; or
- 13.6.5** it is independently developed without access to the other party's Confidential Information.
- 13.7** The Contractor may only disclose the Council's Confidential Information to the Contractor Personnel who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Contractor Personnel are aware of and shall comply with these obligations as to confidentiality.
- 13.8** The Contractor shall not, and shall procure that the Contractor Personnel do not, use any of the Council's Confidential Information received otherwise than for the purposes of this Agreement
- 13.9** Nothing in this Agreement shall prevent the Council from disclosing the Contractor's Confidential Information:
- 13.9.1** to any consultant, contractor or other person engaged by the Council;
- 13.9.2** for the purpose of the examination and certification of the Council's accounts or any other form of audit of the Council;
- 13.10** The Council shall use all reasonable endeavours to ensure that any government department, employee, third party or Sub-contractor to whom the Contractor's Confidential Information is disclosed pursuant to this Agreement is made aware of the Council's obligations of confidentiality.
- 13.11** Nothing in this clause shall prevent either party from using any techniques, ideas or know-how gained during the performance of the Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.
- 13.12** The provisions of this Clause shall survive the expiration or termination of this Agreement.
- 14. Agreement and Transparency**
- 14.1** Further to the Local Government Transparency Code 2015 the Council is obliged to publish details of expenditure exceeding £500. The Parties acknowledge that, except for any information which is exempt from disclosure in accordance with the provisions of the FOIA, the content of this Agreement and any associated tender documentation provided by the Contractor (the Tender Submission) is not Confidential Information. The Council shall be responsible for determining in its absolute discretion whether any of the content of the Agreement or the Tender

Submission is exempt from disclosure in accordance with the provisions of the FOIA.

- 14.2 Notwithstanding any other term of this Agreement, the Contractor hereby gives his consent for the Council to publish this Agreement and the Tender Submission in its entirety, including from time to time agreed changes to the Agreement, to the general public.
- 14.3 The Council may consult with the Contractor to inform its decision regarding any exemptions but the Council shall have the final decision in its absolute discretion.
- 14.4 The Contractor shall assist and cooperate with the Council to enable the Council to publish this Agreement and the Tender Submission.

15 Council Data – NOT USED

16. Not Used

17. Not Used

18. Data Protection

- 18.1 Both parties will comply with all applicable requirements of the Data Protection Legislation and agree to take account of any guidance issued by the Information Commissioner's Office. This clause 18 is in addition to, and does not relieve, remove or replace, a party's obligations under the Data Protection Legislation.
- 18.2 where there is any conflict, ambiguity or inconsistency between this clause (including any associated definitions) and the remainder of this Agreement, this clause 18 shall take precedence.
- 18.3 The parties acknowledge that for the purposes of the Data Protection Legislation and for the remainder of this clause 18 where the context so admits, the Council is the Data Controller and the Contractor is the Data Processor unless otherwise specified in Schedule 6. Schedule 6 sets out the scope, nature and purpose of processing by the Contractor, the duration of the processing and the types of Personal Data and categories of Data Subject. The provisions of clause 18.5 to 18.9 shall apply to this relationship.

18.4 NOT USED

Data Processor's Obligations

- 18.5 Without prejudice to the generality of Clause 18.1, the Council will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Contractor and/or lawful collection of the Personal Data by the Contractor on behalf of the Council for the duration and purposes of this Agreement.

18.6 Without prejudice to the generality of Clause 18.1, the Contractor shall, in relation to any Personal Data processed in connection with the performance by the Contractor of its obligations under this Agreement:

- (a) process that Personal Data only on the documented written instructions of the Council as set out in Schedule 3 unless the Contractor is required by Domestic Law to otherwise process that Personal Data. Where the Contractor is relying on Domestic Law as the basis for processing Personal Data, the Contractor shall promptly notify the Council of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Contractor from so notifying the Council;
- b) ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Council, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it);
- (c) ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
- (d) not transfer any Personal Data outside of the UK unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:
 - (i) the Contractor has provided appropriate safeguards in relation to the transfer as determined by the Council;
 - (ii) the Data Subject has enforceable rights and effective legal remedies;
 - (iii) the Contractor complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and

- (iv) the Contractor complies with reasonable instructions notified to it in advance by the Council with respect to the processing of the Personal Data;
 - (e) notify the Council immediately if it receives:
 - i) a request from a Data Subject to have access to that person's Personal Data;
 - (ii) a request to rectify, block or erase any Personal Data;
 - (iii) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation (including any communication from the Information Commissioner);
 - (f) assist the Council in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
 - (g) notify the Council without undue delay on becoming aware of a Personal Data Breach including without limitation any event that results, or may result, in unauthorised access, loss, destruction, or alteration of Personal Data in breach of this Agreement ;
 - (h) at the written direction of the Council, delete or return Personal Data and copies thereof to the Council on termination of the Agreement unless required by Domestic Law to store the Personal Data; and
 - i) maintain complete and accurate records and information to demonstrate its compliance with this clause 18 and allow for audits by the Council or the Council's designated auditor and immediately inform the Council if, in the opinion of the Contractor, an instruction infringes the Data Protection Legislation
- 18.7** The Contractor shall indemnify the Council against any losses, damages, cost or expenses incurred by the Council arising from, or in connection with, any breach of the Contractor's obligations under this Clause 18.
- 18.8** The Council does not consent to the Contractor appointing any third party processor of Personal Data under this Agreement
- 18.9** The Council may, at any time on not less than 30 days' notice, revise this clause 18 by replacing it with any applicable controller to processor standard clauses or similar terms adopted by the Information Commissioner or forming part of an applicable certification scheme (which shall apply when replaced by attachment

to this Agreement).

19. Council Data and Personal Information Audits

19.1 Except where an audit is imposed on the Council by a Regulatory body, the Council may, acting reasonably, conduct an audit for the following purposes:

19.1.1 Not Used

19.1.2 to review the Contractor's compliance with the Data Protection Legislation, the Freedom of Information Act 2000 in accordance with the Protection of Personal Data and Freedom of Information clauses and any other legislation applicable to the Services;

19.2 The Council shall use its reasonable endeavours to ensure that the conduct of each audit does not unreasonably disrupt the Contractor or delay the provision of the Services.

19.3 Subject to the Council's obligations of confidentiality, the Contractor shall on demand provide the Council (and/or its agents or representatives) with all reasonable co-operation and assistance in relation to each audit, including:

19.3.1 all information requested by the Council within the permitted scope of the audit;

19.3.2 reasonable access to any sites controlled by the Contractor and to any equipment used (whether exclusively or non-exclusively) in the performance of the Services;

19.3.3 access to Contractor Personnel

19.4 The Contractor shall implement all measurement and monitoring tools and procedures necessary to measure and report on the Contractor's performance of the Services.

19.5 The Council shall endeavour to (but is not obliged to) provide at least 5 Working Days notice of its intention to conduct an audit.

19.6 The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this clause.

19.7 This clause shall not apply to any audit or inspection regarding the provision of the Services specified in the Service Specification or elsewhere in this Agreement which may be conducted as specified in this Agreement.

20. Assignment, Transfer and Sub-contracting

20.1 Neither Party shall be entitled to assign, novate or otherwise dispose of any or all of its rights and obligations under this Agreement without the prior written consent of the other Party PROVIDED that the Council may,

- (a) assign any of its rights under this Agreement; or
- (b) transfer all of its rights or obligations by novation,
to another person.

without the Contractor's consent where such assignment, transfer or novation is to an Associated Person of the Council;

- 20.2** Any consent required under Clause 20.1 must not be unreasonably withheld or delayed and if not expressly refused within five Working Days shall be deemed given.
- 20.3** The Contractor will not, without the written consent of the Council, sub-contract its right or obligations under this Agreement nor allow Services to be provided other than through the Contractor Personnel and using its own equipment.
- 20.4** In the event that consent is given by either Party to the other Party to the placing of sub-contracts, copies of each sub-contract and order shall be sent by the sub-contracting Party to the consenting Party immediately it is issued and sub-contracting shall only be permitted to another contractor on the Council's approved list and may only be on a short term basis and in no circumstances shall it constitute the sub-contraction of more than 10% of the total scheduled contract works.
- 20.5** Subject to clause 20.1, in the event that either Party wishes to assign its rights and obligations under this Agreement, the assignor must obtain a written undertaking from the assignee to the consenting Party that it will be bound by the obligations of the assignor under this Agreement.
- 20.6** Notwithstanding the Contractor's right to sub-contract pursuant to this clause 20, the Contractor shall remain responsible for all acts and omissions of its Sub-contractors and the acts and omissions of those employed or engaged by the Sub-Contractors as if they were its own and shall be responsible for the work of the Sub-Contractor whose work shall be undertaken to the same standard as stated in the Specification.

21. Public Interest Disclosure ('Whistleblowing')

The Contractor will ensure that his employees and agents are made aware of the Council's policy "Speaking Up About Wrongdoing" and that the details of this policy are fully explained to them and shall provide the Council with evidence of doing so upon request.

22. Publicity³⁴

³⁴ Delete and replace words highlighted in green with words "not used"

The Contractor will not make any press or other release or public announcement in relation to this Agreement without the prior approval of the Council

23. Prevention of Bribery

23.1 The Contractor:

- a) shall not, and shall procure that all Contractor Personnel shall not, in connection with this Agreement commit a Prohibited Act;
- b) warrants, represents and undertakes that it is not aware of any financial or other advantage being given to any person working for or engaged by the Council, or that an agreement has been reached to that effect, in connection with the execution of this Agreement, excluding any arrangement of which full details have been disclosed in writing to the Council before execution of this Agreement.

23.2 The Contractor shall:

- a) if requested, provide the Council with any reasonable assistance, at the Council's reasonable cost, to enable the Council to perform any activity required by any relevant government or agency in any relevant jurisdiction for the purpose of compliance with the Bribery Act;
- b) the Contractor shall, within 10 Working Days of a request from the Council, certify to the Council in writing (such certification to be signed by an officer of the Contractor) the Contractor's compliance with this clause 23 and provide such supporting evidence of compliance with this clause 23 by the Contractor as the Council may reasonably request.

23.3 If any breach of clause 23.1 is suspected or known, the Contractor must notify the Council immediately.

23.4 If the Contractor notifies the Council that it suspects or knows that there may be a breach of clause 23.1, the Contractor must respond promptly to the Council's enquiries, co-operate with any investigation, and allow the Council to audit books, records and any other relevant documentation. This obligation shall continue for two years following the expiry or termination of this Agreement.

23.5 The Council may terminate this Agreement by written notice with immediate effect, and recover from the Contractor the amount of any loss directly resulting from the cancellation, if the Contractor or Contractor Personnel (in all cases whether or not acting with the Contractor's knowledge) breaches clause 23.1. At the Council's absolute discretion, in determining whether to exercise the right of termination under this clause 23.5, the Council shall give consideration, where

appropriate, to action other than termination of this Agreement unless the Prohibited Act is committed by the Contractor or a senior officer of the Contractor or by an employee, Sub-Contractor or supplier not acting independently of the Contractor. The expression "not acting independently of" (when used in relation to the Contractor or a Sub-Contractor) means and shall be construed as acting:

- a) with the Council; or,
- b) with the actual knowledge;
of any one or more of the directors of the Contractor or the Sub-Contractor (as the case may be); or
- c) in circumstances where any one or more of the directors of the Contractor ought reasonably to have had knowledge.

23.6 Any notice of termination under clause 23.5 must specify:

- a) the nature of the Prohibited Act;
- b) the identity of the party whom the Council believes has committed the Prohibited Act; and
- c) the date on which this Agreement will terminate.

23.7 Despite clause 34 (Disputes), any dispute relating to:

- a) the interpretation of this clause 23; or
 - b) the amount or value of any gift, consideration or commission,
- shall be determined by the Council and its decision shall be final and conclusive.

23.8 Any termination under clause 23.5 will be without prejudice to any right or remedy which has already accrued or subsequently accrues to the Council.

24. Warranties, liability and indemnities

The Contractor warrants, represents and undertakes that:

24.1 it will carry out the work by the Expiry Date

24.2 it will perform the Services with all due skill and diligence and in a good and workmanlike manner, and in accordance with the Best Practice within the industry of the Contractor and will have adequate numbers of Contractor Personnel to provide the Service

24.3 its Contractor Personnel will have the necessary skill, professional qualifications and experience to deliver the Services in accordance with the Specification and Best Practice

24.4 NOT USED

24.5 it has full capacity and authority to enter into this Agreement

24.6 it has obtained all necessary and required licences, consents and permits to provide the Services

- 24.7** it shall be responsible for all costs, fees, expenses and charges for training necessary or required for the Contractor Personnel to perform the Services
- 24.8** NOT USED
- 24.9** The Contractor shall where appropriate take account of the Human Rights Act 1998 and shall not do anything in breach of it.
- 24.10** The Contractor will at all times in providing the Services to the Council comply with the provisions of the Health and Safety at work Act 1974 and provide evidence of doing so to the Council at any time upon request and:
- 24.10.1** The Contractor shall promptly notify the Council of any health and safety hazards which may arise in connection with the performance of this Agreement.
- 24.10.2** The Council shall promptly notify the Contractor of any health and safety hazards which may exist or arise at any of the Properties which may affect the Contractor in the performance of this Agreement.
- 24.10.3** The Contractor shall make itself aware of and will comply with any health and safety measures implemented by the Council with respect to Properties under its control and to health and safety measures implemented by the managers/owners of Properties which are not under the control of the Council
- 24.10.4** The Contractor shall report all accidents and/or injuries relating to the provision of the Services to the Council immediately.
- 24.10.5** The Contractor shall ensure that its health and safety policy statement (as required by the Health and Safety at Work etc. Act 1974) is made available to the Council upon request.
- 24.11** The Contractor warrants that none of its current Directors have been involved in liquidation or receivership or have any criminal convictions.
- [24.12³⁵** If the Contractor performs the Services (or any part thereof) negligently or in breach of this Agreement (“defaulting works”), then if requested by the Council, the Contractor will re-perform the Services or relevant part thereof at no additional cost to the Council within 28 days of such a request. The Council’s request must be made within 6³⁶ months of it becoming aware of the defaulting works or in any event within 6 months of the Expiry Date or termination of this Agreement whichever is the later and the Contractor shall respond to such requests in accordance with paragraph 1.16 (Recalls) of the Specification]
- 24.13** the Contractor warrants that the signing of this Agreement on its behalf has been

³⁵ Optional clause. Delete if not required and replace text highlighted in green with words “not used”.

³⁶ Insert appropriate timescale

validly authorised and the obligations expressed as being assumed by the Contractor under this Agreement constitute valid legal and binding obligations of the Contractor enforceable against the Contractor in accordance with their terms.

24.14 The Contractor acknowledges and confirms that:

- 24.14.1** it has had an opportunity to carry out a thorough due diligence exercise in relation to the Services and has asked the Council all the questions it considers to be relevant for the purpose of establishing whether it is able to provide the Services in accordance with the terms of this Agreement;
- 24.14.2** it has received all information requested by it from the Council pursuant to sub-clause 24.14.1 to enable it to determine whether it is able to provide the Services in accordance with the terms of this Agreement;
- 24.14.3** it has made and shall make its own enquiries to satisfy itself as to the accuracy and adequacy of any information supplied to it by or on behalf of the Council pursuant to sub-clause 24.14.2;
- 24.14.4** it has raised all relevant due diligence questions with the Council before the Commencement Date; and
- 24.14.5** it has entered into this Agreement in reliance on its own diligence
- 24.14.6** as at the Commencement Date, the Contractor warrants and represents that all information contained in the Tender remains true, accurate and not misleading, save as may have been specifically disclosed in writing to the Council prior to execution of the Agreement AND shall promptly notify the Council in writing if it becomes aware during the performance of this Agreement of any inaccuracies in any information provided to it by the Council during such due diligence which materially and adversely affects its ability to perform the Services
- 24.14.7** The Contractor shall not be entitled to recover any additional costs from the Council which arise from, or be relieved from any of its obligations as a result of, any matters or inaccuracies notified to the Council by the Contractor in accordance with sub-clause 24.14.6 save where such additional costs or adverse effect on performance have been caused by the Contractor having been provided with fundamentally misleading information by or on behalf of the Council and the Contractor could not reasonably

have known that the information incorrect or misleading at the time such information was provided.

24.15 The Contractor agrees that where requested in writing during the term of this Agreement it will ensure that an appropriately authorised representative of the Contractor shall attend a Committee meeting of the Council upon being invited to do so by the Council

24.16 In performing its obligations under this Agreement, the Contractor shall and shall ensure that each of its sub-contractors shall comply with all applicable anti-slavery and human trafficking laws, statutes, regulations and codes from time to time in force including but not limited to the Modern Slavery Act 2015

25. Freedom of Information Act 2000 & Environmental Information Regulations 2004

25.1 The Contractor acknowledges that the Council is subject to the requirements of the FOIA and the Environmental Information Regulations and shall assist and cooperate with the Council to enable the Council to comply with its Information disclosure obligations.

25.2 The Contractor shall notify the Council of any Commercially Sensitive Information provided to the Council together with details of the reasons for its sensitivity and the Contractor acknowledges that any lists or schedules of Commercially Sensitive Information so provided are of indicative value only and that the Council may be obliged to disclose such information.

25.3 The Contractor shall and shall procure that its Sub-contractors shall:

25.3.1 transfer to the Council all Requests for Information that it receives as soon as practicable and in any event within two Working Days of receiving a Request for Information;

25.3.2 provide the Council, at the Contractor's expense, with a copy of all Information in its possession, or power in the form that the Council requires within five Working Days (or such other period as the Council may specify) of the Council's request; and

25.3.3 provide, at the Contractor's expense, all necessary assistance as reasonably requested by the Council to enable the Council to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

- 25.4** The Council shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Agreement or any other agreement whether the Commercially Sensitive Information and/or any other Information is exempt from disclosure in accordance with the provisions of the FOIA or the Environmental Information Regulations and in considering any response to a Request for Information the Council may consult with the Contractor prior to making any decision or considering any exemption.
- 25.5** In no event shall the Contractor respond directly to a Request for Information unless expressly authorised to do so by the Council.
- 25.6** The Contractor acknowledges that (notwithstanding the provisions of this Freedom of Information clause) the Council may, acting in accordance with the Department of Constitutional Affairs' Code of Practice on the Discharge of the Functions of Public Authorities under Part 1 of the Freedom of Information Act 2000 ("the Code"), be obliged under the FOIA, or the Environmental Information Regulations to disclose information concerning the Contractor or the Services:
- 25.6.1** in certain circumstances without consulting the Contractor; or
- 25.6.2** following consultation with the Contractor and having taken their views into account;
- provided always that where sub-clause 25.6.1 above applies the Council shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Contractor advanced notice, or failing that, to draw the disclosure to the Contractor's attention after any such disclosure.
- 25.7** The Contractor shall ensure that all Information required to be produced or maintained under the terms of this Agreement, or by law or professional practice or in relation to the Agreement is retained for disclosure for at least the duration of the Agreement plus one year together with such other time period as required by the Agreement, law or practice and shall permit the Council to inspect such records as requested from time to time.
- 25.8** The Council shall in no event be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA, or any other law, of any information (including Exempt Information) whether relating to this Agreement or otherwise relating to any other party.
- 26** **Not Used**
- 27.** **Equalities**
- 27.1** The Contractor and any Sub-Contractor employed by the Contractor shall not unlawfully discriminate either directly or indirectly on such grounds as race or

ethnic origin, disability, gender, sexual orientation, religion or belief, or age

- a) in the supply and provision of Services under this Agreement, and
- b) in its employment practices.

27.2 Without prejudice to the generality of the foregoing, the Contractor shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010 (or other relevant legislation, or any statutory modification or re-enactment thereof).

27.3 In addition, the Contractor and any Sub-Contractor or person(s) employed by or under the control of the Contractor in providing Services to the Council will comply with the general duty imposed on local authorities by Section 149 of the Equality Act 2010 to eliminate discrimination, harassment and victimisation and promote equality of opportunity between persons who share a protected characteristic and those who do not share it and to foster good relations between persons who share a protected characteristic and those who do not share it

27.4 The Contractor and any Sub-Contractor will take all reasonable steps to observe as far as possible the Codes of Practice produced by Equality and Human Rights Commission, which give practical guidance to Councils on the elimination of discrimination.

27.5 In the event of any finding of unlawful discrimination being made against the Contractor and any Sub-Contractor during the contract period, by any court or employment tribunal, or any adverse finding or formal investigation by the Equality and Human Rights Commission over the same period, the Contractor and any Sub-Contractor shall inform the Council of this finding and shall take appropriate steps to prevent repetition of the unlawful discrimination.

27.6 The Contractor and any Sub-Contractor employed by the Contractor will provide a copy of its policies to the Council at any time upon request. In addition, the Council may reasonably request other information from time to time for the purpose of assessing the Contractor's compliance with the above conditions.

28. Non-compliance

28.1. If the Council identifies areas of the Services which do not comply with the requirements of this Agreement (including any Schedules to this Agreement) it may send the Contractor a non-compliance notice detailing

- (i) the areas of non-compliance;
- (ii) the action to be taken; and
- (iii) the date by which the action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).

28.2 If the Contractor fails to take any or all of the necessary action by the date given

in the non-compliance notice, the Council may send the Contractor a final non-compliance notice detailing the outstanding:

- (i) areas of non-compliance;
- (ii) actions to be taken;
- (iii) the date by which action must be taken (which for the avoidance of doubt must not be a date less than 14 days from the date of the notice).

28.3 If, in the reasonable opinion of the Council, the Contractor fails to undertake all of the remedial actions in final non-compliance notice by the due date this may be considered a material breach of this Agreement and the Council shall be entitled to take either of the following steps depending on the seriousness of the non-compliance (which in the event of dispute shall be determined in accordance with clause 34:

- (a) to make arrangements to take its own corrective action either itself or through the appointment of another Contractor and to either:
 - (i) deduct all costs in connection therewith from any sums due or to become due to the Contractor under the terms of this Agreement; or
 - (ii) to recover such sums from the Contractor as a debt;

And/or

- (b) to terminate the Agreement in accordance with clause 38 Termination

29. Waiver

The failure by either Party to enforce at any time or for any period any one or more of the terms and conditions herein shall not be a waiver of them or of the right at any time subsequently to enforce all the terms and conditions of this Agreement.

30. Sustainability

The Contractor will at all times use its best endeavours to assist the Council and operate themselves in a manner which meets the aims and objectives set out in the sustainable policies of the Council, copies of which are available on the Council's website

31. Audit And Monitoring

The Contractor will allow access for the Council and its officers to all relevant information for the purposes of audit and the monitoring of this Agreement.

32. Safeguarding NOT USED

33. Complaints Procedure

33.1 The Contractor shall operate a complaints procedure in respect of any services or works provided under this Agreement to deal with any complaint received about the standard of services or the manner in which any services have been supplied

- or work has been performed or any other matter connected with the performance of the Contractor's obligations under this Agreement ("the Complaints Procedure"). For the avoidance of doubt any complaint or issue that the Council has in respect of the Contractor's performance of this Agreement shall be dealt with in accordance with the remainder of this Agreement.
- 33.2** The Contractor's Complaints Procedure shall comply with applicable Law and the requirements of any regulatory body to which the Contractor is subject or which are applicable to the service being provided (including any change in such requirements) and shall meet the following minimum standards:
- 33.2.1** is easy for complainants to access and understand
 - 33.2.2** clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;
 - 33.2.3** provides confidential record keeping to protect employees under this Agreement and the complainant
 - 33.2.4** provides information to the Contractor's management so that services can be improved
 - 33.2.5** provides effective and suitable remedies
 - 33.2.6** is regularly monitored and audited and which takes account of complainant and Council feedback
- 33.3** The Contractor shall inform any users of the services or works provided under this Agreement of the existence of the complaints procedure and how to access it and will make its Complaints Procedure available on request.
- 33.4** The Contractor shall investigate and deal with any complaints it receives about the services or works, whether direct from the public or services users, or referred to it by the Council, in accordance with its published complaints procedure.
- 33.5** The Contractor shall ensure that:
- 33.5.1** it promptly, and within a maximum of 10 days of receiving the complaint, notifies the complainant that the Contractor is dealing with the complaint
 - 33.5.2** under no circumstances is a complaint investigated by a member of its staff employed under this contract who may be part of the complaint.
 - 33.5.3** someone who is independent of the matter complained of carries out the investigation
 - 33.5.4** the complainant is made aware that they are entitled to have the complaint investigated by the Council if they are not satisfied with either the process of investigation or finding of the Contractor's investigations

33.5.5 it deals with the complaint fully, expeditiously and fairly and shall use its reasonable endeavours to resolve the complaint within 21 Working Days of receiving the complaint

33.5.6 where a complaint is received by the Contractor relating to the policy or decisions of the Council rather than the Contractor's delivery of its obligations under this Agreement, the Contractor shall promptly, and within two Working Days, refer the complaint to the Council for investigation.

33.6 The Contractor shall ensure that all its employees and persons employed under this Agreement are made aware of its Complaints Procedure and shall designate one employee (who shall be identified to the Council) to whom a complaint may be referred should the complainant not be satisfied with the initial response to their complaint

33.7 The Contractor shall keep accurate and complete written records of all complaints received and the responses to them and shall make these records available to the Council within 5 Working Days of being requested or at 12 monthly intervals in any event.

33.8 Where the Council is investigating a complaint the Contractor is required to participate fully in all investigations within the timescales requested by the Council.

33.9 The Contractor should note that if a complaint is made to the Council by a third party relating to the services or works provided, the Local Government Ombudsman has the power to investigate such a complaint and the Council requires the Contractor to fully co-operate in such investigation. If the Council is found guilty of maladministration or injustice by the Local Government Ombudsman because of the act or default of the Contractor the Contractor shall indemnify the Council in respect of the costs arising from such maladministration or injustice.

34. Disputes

34.1 If any dispute or difference shall arise between the parties as to the construction of this Agreement or any matter or thing of whatever nature arising under this Agreement or in connection with it then the same shall be dealt with as follows:-

34.1.1 In the first instance a special meeting of both the Parties shall be arranged on 14 days written notice to the other party and the matter shall be discussed and the representatives shall use their reasonable endeavours to resolve the dispute

34.1.2 If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Chief Executive and the Contractor or other authorised officer whose details have been notified to the Council, with notice of the dispute and those officers shall then appoint their representative to adjudicate and use their reasonable endeavours to resolve the dispute within 21 days of receipt of such notice

34.1.3 If the dispute cannot be resolved in accordance with the preceding sub-clause then it shall be referred to a single arbitrator to be agreed between the Parties and failing such agreement within 14 days of the request of one Party to the other in writing that the matter be referred to arbitration such reference shall be to a single arbitrator appointed for that purpose on the written request of either Party by the President for the time being of the Law Society of England and Wales and any reference to arbitration under this clause shall be deemed to be a reference to arbitration within the meaning of the relevant Arbitration Acts and it is further agreed that if any matter is referred to arbitration then each Party will bear its own costs of such referral

35. Force Majeure

35.1 Neither the Council nor the Contractor shall be in breach of this Agreement nor liable for any failure or delay in performing their obligations under this Agreement where it is directly caused, arising from a "Force Majeure Event", provided that:-

35.1.1 any delay by a sub-contractor or supplier of the Party who is delayed will not relieve that Party from liability for delay except where the delay is beyond the reasonable control of the sub-contractor or supplier concerned; and

35.1.2 staff or material shortages or strikes or industrial action affecting only the Party who is delayed will not relieve that Party from liability for delay.

35.2 If a Party is subject to a Force Majeure Event it shall not be in breach of this Agreement provided that:-

35.2.1 it promptly notified the other Party in writing of the nature and extent of the Force Majeure Event causing its failure or delay in performance; and

35.2.2 it has used its reasonable endeavours to mitigate the effect of the Force Majeure Event, to carry out its obligations under this Agreement in any way that

is reasonably practicable and to resume the performance of its obligations as soon as reasonably possible

in which case the performance of that Party's obligations will be suspended during the period that those circumstances persist and that Party will be granted a reasonable extension of time for performance up to a maximum equivalent to the period of the delay.

35.3 Save where that delay is caused by the act or failure to act of the other Party (in which event the rights, remedies and liabilities of the Parties will be those conferred by the other terms of this Agreement and by law):-

35.3.1 any costs arising from that delay will be borne by the Party incurring the same; and

35.3.2 either Party may, if that delay continues for more than 5 weeks, terminate this Agreement immediately on giving notice in writing to the other. Such termination shall be without prejudice to the rights of the parties in respect of any breach of this Agreement occurring prior to such termination.

36. Rights of Third Parties

The Parties to this Agreement do not intend that any of its terms will be enforceable by any person not a party to it by virtue of the Contracts (Rights of Third Parties) Act 1999 (or any amendment or re-enactment thereof).

37. Notices

37.1 Unless otherwise communicated to the Party in writing any notice to be given by either party to the other may be served by email, personal service or by post to the address of the other party that is the registered office or main place of business of the Contractor or if the Council, the Shirehall, Abbey Foregate, Shrewsbury SY2 6ND

37.2 A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, Notice given by letter shall be deemed to have been served at the time at which the letter was delivered personally or if sent by second class post shall be deemed to have been delivered in the ordinary course of post and if by first class post shall be deemed to have been delivered 48 hours after posting and acknowledged

38. Termination

38.1 Either Party may terminate this Agreement by giving to the other Party at least [.....]³⁷ months' notice in writing

- 38.2** Either Party may terminate this Agreement by notice in writing to the other if:
- 38.2.1** the other Party commits a material breach of this Agreement and, in the case of a breach capable of being remedied, fails to remedy it within 14 calendar days of being given notice in writing setting out the breach and indicating that failure to remedy the breach may result in termination of this Agreement.
 - 38.2.2** the other Party commits a series of minor breaches which, when taken together, amount to a material breach;
 - 38.2.3** the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;
 - 38.2.4** The Council may terminate this Agreement forthwith by notice where the Contractor commits a material breach resulting from a failure to comply with the non-compliance notices issued in accordance with clause 28 (Non-Compliance).
 - 38.2.5** the other Party passes a resolution for winding up (other than for the purpose of solvent amalgamation or reconstruction), or a court of competent jurisdiction makes an order to that effect;
 - 38.2.6** the other Party ceases to carry on its business or substantially the whole of its business; or
 - 38.2.7** the other Party is declared insolvent or convenes a meeting of or makes or proposes to make any arrangement or composition with its creditors; or a liquidator, receiver, administrative receiver, manager, trustee or similar officer is appointed over any of its assets.
- 38.3** Where notice to terminate is given pursuant to this clause 38, this Agreement shall terminate with effect on the date specified in the notice
- 39. Consequences of Termination**
- 39.1** Other than as set out in this Agreement, neither Party shall have any further obligations to the other under this Agreement after its termination
 - 39.2** Any provision of this Agreement which expressly or by implication is intended to come into or continue in force on or after termination of this Agreement shall remain in full force and effect
 - 39.3** Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination

- 39.4** Notwithstanding its obligations in this clause 39, if a Party is required by law, regulation, or government or regulatory body to retain any documents or materials containing the other Party's Confidential Information, it shall notify the other Party in writing of such retention, giving details of the documents and/or materials it must retain.
- 39.5** upon termination of this Agreement for any reason, the Contractor shall, at its own cost, deliver, and require that its employees, agents and sub-contractors deliver, to the Council all Project Materials information and any other property of the Council which are in the possession or control of the Contractor or the Contractor's employees, agents or Sub-Contractors at the date of termination.
- 40. Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)**

The Parties agree that the provisions of Schedule 2 shall apply to any Relevant Transfer of staff under this Agreement

- 41. Staffing Security– NOT USED**
- 42. Security Requirements – NOT USED**
- 43. Governing Law And Jurisdiction**

It is the responsibility of the Contractor to comply with all relevant European and English legislation. This Agreement shall be governed by and construed in accordance with English law and the parties agree to submit to the exclusive jurisdiction of the English Courts

44. Severance

If any provision of this Agreement prohibited by law or judged by any court of competent jurisdiction to be unlawful, void, invalid or unenforceable, the provision shall, to the extent required, be severed from this Agreement and rendered ineffective as far as possible without modifying the remaining provisions of this Agreement and shall not in any way affect any other circumstances of or the validity or enforcement of this Agreement.

45. Parent Company Guarantee³⁸ – NOT USED

It is a condition of this Agreement that if the Contractor is a subsidiary company then its Ultimate Group/Holding Company must guarantee the performance of this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company.

46. Amendments

³⁸ Delete this clause if no parent company guarantee is required.
Replace text highlighted in green with words "not used"

This Agreement may only be amended in writing signed by duly authorised representatives of the Parties.

47. Agency, Partnership etc

This Agreement shall not constitute or imply any partnership, joint venture, agency, fiduciary relationship or other relationship between the Parties other than the contractual relationship expressly provided for in this Agreement. Neither Party shall have, nor represent that it has, any authority to make any commitments on the other Party's behalf.

48. Conflict of Terms

If there is any ambiguity or inconsistency in or between the Contract Documents the Council shall determine, at its sole discretion, the priority of the documents.

49. Entire Agreement

This Agreement contains the entire agreement between the Parties relating to the subject matter and supersedes any previous agreements, arrangements, undertakings or proposals, oral or written.

IN WITNESS of this Agreement

Signed by and on behalf of
Shropshire Council

..... **Director of Legal & Democratic Services**

..... **Legal Services Manager** ³⁹

Signed by and on behalf of
(Contractor)⁴⁰

.....

³⁹ Insert this signatory page if the contract to be awarded is a major contract under the Council's Contract Procedure Rules, otherwise, contact legal services as to the appropriate attestation clause

⁴⁰ Insert the contractors name

Signature of authorised signatory

Position in Company

Or

.....

Director

.....

Director/Company Secretary

Print Name (s)

SCHEDULE 1
SPECIFICATION

SHROPSHIRE COUNCIL

FACILITIES MANAGEMENT TEAM

**RMCB 038 - The Provision of Recycling and Waste
Collection Services including the destruction of
confidential waste paper from Shropshire Council
owned/run properties**

SPECIFICATION

*Prepared by:
Shropshire Council
Facilities Management Team
June 2021*

RMCB038 - WASTE COLLECTION

**COLLECTION OF COMMERCIAL WASTE
FROM SHROPSHIRE COUNCIL BUILDINGS
SPECIFICATION**

CONTENTS

1.0	General Conditions	Page 3
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4.0	Collection Programme & Scheduling	Page 10
5.0	Contract Service Outputs	Page 11

WASTE COLLECTION SPECIFICATION

1.0 GENERAL CONDITIONS

1.1 SCOPE OF CONTRACT

The Services shall comprise of the provision of recycling and residual waste collection services including destruction of confidential waste paper as and when required and where instructed from Shropshire Council owned/run properties throughout the County of Shropshire.

The fundamental objective of the contract is to provide an efficient waste management service capable of servicing Shropshire Council owned and run properties with a full recycling, residual and confidential paper destruction service (where instructed). The Council places emphasis on the waste hierarchy with waste prevention and recycling above waste treatment and disposal.

1.2 AGREED PRICES

The Agreed Prices shall remain firm for the initial period of three years from the Commencement Date.

For subsequent years, annual increases only will be considered, and any annual increase imposed on the anniversary of the commencement of the contract must not exceed the percentage increase in the RPI index during the preceding 12 months (December to December). However, in any event, Shropshire Council reserves the right to negotiate with the Contractor any proposed annual increase in rates if in its opinion they are not justified.

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1.3 SAFETY AND WELFARE OF WORKMAN

The Contractor's attention is particularly drawn to the clause relating to the "Safety and Welfare of Workmen" in the General Conditions and Preliminaries and the Contract. The Agreed Prices shall include all costs incurred in complying with the regulations stated in this contract.

1.4 IMPORTANT NOTES

- The Contractor shall be responsible for visiting the site(s) to take all his own measurements and site surveys and shall make arrangements with the establishment for gaining access to the relevant areas for the purpose of obtaining all necessary particulars for the contract. No claims will be accepted by the Contractor on the grounds of insufficient knowledge.
- The Contractor should familiarise himself with the site(s) and in particular to the problems of gaining access to the site(s). Any damage caused to any property in gaining access to the site by the Contractor or persons servicing the Contractor will be made good at the Contractor's own expense.

- The Contractor shall make good any damage caused to the premises by the Contractor or persons servicing the Contractor during the contract at the Contractor's own expense.
- 2)
- The Contractor should ensure that the area(s) he has been working in are left in a clean, tidy and safe condition any concerns must be raised with the Contract Administrator immediately
- The Contractor shall ensure that all employees working for the Contractor and any persons servicing the Contractor behave in a responsible and respectful manner to all employees of the premises or any persons attending the premises, to include the wearing of suitable and respectable clothing.
- 3)
- The playing of radios or similar devices to the annoyance of or causing noise nuisance to the building users is strictly prohibited.
- This contract is being undertaken on active Council sites and as such the normal operation of any site should not be interfered with. Co-operation and liaison with the site manager about the schedule and limitations is imperative.
- Shropshire Council cannot guarantee a minimum number of properties on this contract and the Contractor shall have no claim whatsoever should the number of properties reduce for the duration of this contract.

1.5 IDENTITY PASSES

All employees and persons servicing the Contractor shall, at the Contractor's expense, be provided with identification passes which meet the minimum acceptable standards of Shropshire Council. The passes shall contain a current photograph of the recipient together with his/her name, also the name of the company by which they are employed and having an authorisation signature, provided by a senior manager/director of that company. The passes should be encapsulated for protection and be available for inspection by premises staff or representatives of the Contract Administrator, at any time while the operative is on site.

1.6 GENERAL HEALTH AND SAFETY

The sites shall be maintained as a clean area at all times free of any litter or debris. The Contractor shall ensure that all public areas and pathways are left clear and free of hazards at all times and leave the premises clean and tidy on completion of the work.

The Council is not responsible for providing suitable first aid facilities on site this is the responsibility of the Contractor.

The Contractor shall ensure that all personnel are provided with, and instructed to wear, personal protective equipment where and whenever there is a risk of injury.

If the premises management agree to provide in-house toilet facilities, the Contractor shall ensure that such facilities and access to and from them, are maintained with all due care and 'left as found'.

1.7 COVID-19

The successful contractor must provide a written risk assessment in relation to Covid-19 detailing all safety measures in place.

The successful contractor must adhere to all H&S Covid-19 measures in place at each site adhering to social distancing measures at all times where possible. If a face covering or PPE must be worn the successful contractor must provide these to their staff at no cost to the Council along with hand sanitisers and disinfectant wipes.

The successful contractor must ensure that their staff do not attend site if they are feeling unwell, have a temperature, cough or are showing signs of Covid-19

1.8 LEGISLATION

The Contractor's attention is drawn to the following Health, Safety and Welfare Legislation:

The Health and Safety at Work	Act 1974
Fire Precautions	Act 1971
Management of Health & Safety at Work	Regulations 1999
Construction and Design Management	Regulations 2015
Construction (Health Safety and Welfare)	Regulations 2015
Lifting Operations & Lifting Equipment	Regulations 1998
Personal Protective Equipment at Work	Regulations 2002
Construction (Head Protection)	Regulations 1989
Health and Safety (First Aid)	Regulations 2009
Control of Substances Hazardous to Health	Regulations 2002
Electricity at Work	Regulations 1989
The Fire Precautions (Workplace) (Amendment)	Regulations 1999
Reporting of Injuries, Diseases & Dangerous Occurrences	Regulations 2013
Manual Handling Operations	Regulations 1992
Provision & Use of Work Equipment	Regulations 1998
Noise at Work	Regulations 2005
Environmental Protection	Regulations 1990
Waste Management Licensing	Regulations 1994

This is not a complete list of the relevant legislation and is presented only as a guide to assist the Contractor.

1.9 RISK ASSESSMENT

The Contractor shall carry out a detailed and recorded "Risk Assessment" for the works..

General Principle of Risk Assessment

The risk assessment will identify what measures the Contractor needs to take to comply with the requirements and prohibitions imposed on him by or under the "relevant statutory provisions". This phrase covers the general duties in the Health and Safety at Work Act etc. 1974 and more specific duties in the various Acts and Regulations (including the Management of Health and Safety at Work Regulations) 1992 associated with Health and Safety at Work.

1.10 METHOD STATEMENT

Contractors are reminded that for certain hazardous operations, they will be required to prepare a method statement for the work. It is anticipated that such statements will include, where applicable 'the sequence and method of work'.

The Council will always require a method statement for the following types of work:-

- a) demolition
- b) steel erection
- c) entry into confined spaces
- d) handling and removal of asbestos
- e) use of explosives (including cartridge tools)
- f) roof works and other overhead work
- g) contaminated sites or buildings
- h) other high risk activities may also require a Permit to Work

In many instances method statements can form the control measures required by risk assessment and the document can be accepted as such.

1.11 SPECIAL TERMS & CONDITIONS

The Contractor must not deviate from the Agreed Prices.

1.12 DATA PROTECTION

In addition to the Data Protection provisions contained in clause 18 of this Agreement the following also apply:

- The British Standard for the secure destruction of confidential material (BS 8470:2006) applies to confidential information in all its forms. It requires companies to dispose of confidential information by shredding or disintegration. Confidential materials include paper records, computer hard drives and CDs/DVDs.
- Organisations must ensure that any documents containing confidential contract information must be disposed of in a manner that complies with BS 8470 when transporting, storing and destroying documents

1.13 BUSINESS CONTINUITY

The Contractor is required to have considered Business Continuity arrangements and developed robust Business Continuity Plans which will minimise any effects on this contract should the Contractor's resources or operations be compromised through an unplanned event. The Contractor shall make available upon request for inspection their Business Continuity plans which, as a minimum, shall detail contingencies in the event of loss or reduced Contract Administration staff, office facilities or IT infrastructure and craft operatives and/or sub-Contractors in the event of widespread illness i.e. flu pandemic. Additional contract sensitive issues i.e. supply chain management should also be considered.

1.14 ESSENTIAL/DESIRABLE MEMBERSHIP/REQUIREMENT

It is an essential requirement of this contract that the successful Contractor must adhere to the current Waste Management Licensing Regulations and it is the Contractor's responsibility to ensure that any amendments are adhered to throughout the duration of this contract.

It is desirable that the successful Contractor is a member of Chartered Institute of Wastes Management (CIWM), Environmental Services Association (ESA) or EU equivalent for the duration of this contract.

1.15 PERSONNEL

The successful Contractor must provide a thorough and detailed training programme, including health & safety, for each of the operatives that would be working on this contract. Evidence must also be given that continued training takes place which includes competency records along with asbestos awareness. It is the Contractor's responsibility to ensure that their personnel continue to receive up to date training throughout the duration of the contract and document evidence of this.

Documented evidence for each staff member who attend site must be provided by the Contractor as part of this tender.

2.0 GENERAL REQUIREMENTS

2.1 PROGRAMME OF WORK

The programme shall comprise of weekly or fortnightly collections of commercial waste from Shropshire Council owned/run properties as dictated by each site. The Contractor must ensure that waste paper, metal, plastic and glass are collected separately. It is the Contractor's responsibility to ensure the prevention of harm to human health and the environment throughout the duration of this contract.

Additional collections may be required periodically. It will be the responsibility of the site to arrange these directly with the Contractor.

The Contractor must schedule collections for 20, 40 or 52 weeks as required by each property. Collections are to be at the rates stated in Section C Pricing Schedule of the Tender Response document.

2.2 STATUTORY REGULATIONS

It is the Contractor's responsibility to ensure compliance with all relevant statutory regulations relating to the collection and disposal of waste are adhered to for the duration of the contract including the EU Waste Framework Directive along with any revisions.

2.3 DISPOSAL OF WASTE

The disposal of all waste must be carried out in accordance with the current regulations and it is the Contractor's responsibility to ensure that this is adhered to for the duration of the contract along with the Contract Service Outputs as detailed below.

2.4 SCHEDULE OF PROPERTIES

Please see Appendix A which details Shropshire Council owned/run properties that are included in this contract. Please ensure that all properties are given the tendered rate without the need to opt into the service.

2.5 UNIT COSTS

The unit costs per bin per lift are detailed in Section C, Pricing Schedule of the Tender Response Document. This cost is to be applied to all properties throughout Shropshire. Additional costs must not be incurred for remote properties.

Any annual increases are to be in line with 1.2 above.

Any requests for additional lifts must be at the standard price rates and should not be at an inflated rate.

2.7 DELETION OF SERVICES

The Council may, during the Term, wish to delete items of plant/property from the schedule of maintenance. Any such deletions shall be effected by giving one months' notice in writing and without penalty to the Council. Visits to sites by the Contractor following notification of deletion shall be at the Contractor's own expense. Any such deletion of plant/property shall lower the cost by the relevant amount.

2.8 ADDITIONAL PLANT/PROPERTIES

The Council may, during the Term, wish to add items of plant/ properties to the schedule of maintenance. Any such additions shall be at the cost stated in Section C, Pricing Schedule of the Tender Response Document.

Any additional properties should be included at the rate included in Section C, Pricing Schedule of the Tender Response Document..

2.9 TRANSPORT

The Agreed Prices shall be deemed to include all transport cost for work persons performing work within the contract including that performed as a result of separate instructions.

2.10 ACCESS TO CONTAINERS

It is the Contractor's responsibility to gain access to containers to enable the waste to be collected. The scheduled date/time should be adhered to for the Term. Any changes to the collection date/time must be agreed with the Contract Administrator or Area Facilities Officer in advance.

It is appreciated that collection date/time may change due to Public Holidays or temporary building closures.

Collections will not be needed during school holidays for school buildings that are closed unless otherwise dictated. It is the Contractor's responsibility to obtain the school

holiday dates for Shropshire Council schools to ensure these are factored into the schedule to avoid collection during these periods. These can be provided by the Contract Administrator upon request.

The Contractor will need to negotiate with schools direct to arrange a collection day/time that is convenient to the school as some schools do not have full time caretakers/cleaners in charge and access may be limited to the area where the bins are stored during school hours. No additional cost should be incurred for this.

If the Contractor enters a building during its closure and activates the intruder alarm, they may be liable for the costs incurred in relation to the Security Guarding company attending site.

2.11 MISSED COLLECTIONS

Any missed collections due to an error by the Contractor will not result in a charge for the Council and should be collected within 5 working days where requested.

2.12 HAZARDOUS SITUATIONS

Should a hazardous situation to the buildings' occupants become apparent, the appropriate service should be isolated (where applicable) and the situation drawn immediately to the Contract Administrator's attention by telephone on Shrewsbury (01743 252895 or 01743 281073).

3.0 GENERAL GUIDANCE

The Contractor shall provide the Council with information to allow the Council to assess the competency of the Contractor and individual personnel carrying out the service work. This shall include as a minimum requirement the names of the specific persons who may carry out the work and a copy of their ISO 9001 certification. It shall also include details of the quality system operated by the Contractor along with their health & safety policy.

The Contractor shall submit a method statement for the work to be undertaken.

All work and procedures must adhere to relevant regulations, statutes and codes of practice.

The Contractor must comply with the Council's Health & Safety Policy. Failure to do so may result in immediate expulsion of Contractor personnel from the site.

Where hazardous or inflammable materials are brought onto site the Council must be notified in compliance with the 'Control of Substances Hazardous to Health Regulations, 2002'. Any hazardous waste generated during sampling (where applicable) must be removed from site by the Contractor in compliance with the 'Health and Safety at Work etc. Act 1974'.

All waste collections shall be undertaken with due care to avoid damage to the contents and fabric of the building.

The Contractor shall advise the premises manager that their waste collection staff may be taking photographs for the inclusion with waste collection report if applicable.

The Contractor is expected to exercise politeness, confidentiality and discretion whilst on site. Results of the service provided may only be divulged to the Council's representative and other persons nominated by the Council.

3.1 ESSENTIAL CRITERIA

It is a legal requirement and therefore an essential criteria for this contract that the Contractor must carry out all services in strict compliance with all relevant UK and EU legislation including any future regulations.

The Contractor must have the required licence in place for the following:

- Waste Carriers Licence
- Environmental permits/Waste Management Licences
- Waste Exemption Certificates
- Duty of Care controlled Waste Transfer Notes
- Hazardous/Special Waste Consignment Notes

It is the Contractor's responsibility to ensure that the collection and disposal of waste from all Shropshire Council properties is managed lawfully. These licences/notes shall be at the Contractors expense and no costs should be incurred by Shropshire Council.

4.0 COLLECTION PROGRAMME & SCHEDULING

The Contract Administrator may, during the , wish to amend the method of collection reporting.

A new method of reporting may be required and the Contractor shall be able to provide proof of Web based reporting should it be required.

It is the Contractor's responsibility to schedule the collection and disposal of all waste ensuring the properties, the Contract Administrator and Area Facilities Officers are informed of the schedule timetable. However the Contractor must be flexible with changes in collection dates (sometimes monthly, sometimes fortnightly, sometimes several times a week depending of the season and demand for certain locations) any changes are not to incur any additional cost and are to be as per Section H Pricing Schedule of the Tender Response document.

The Contractor shall provide a list of the properties included on the schedule to the Contract Administrator every 3 months for the duration of the contract.

4.1 COLLECTION REPORTS

An individual report must be provided and sent with the invoice for each property showing the following:

- 1) Name and address of property
- 2) Property Number

- 3) Date of collection
- 4) Equipment Type (i.e. amount of Ltr)
- 5) Type of waste
- 6) Quantity of each lift
- 7) Total quantity of property lift

It is acceptable for reports to be for a one month period for each property however individual reports must be received for each property and must accompany the relevant invoice.

The Contractor shall ensure that monthly collection reports and invoices are submitted to the Contract Administrator or Area Facilities Officer in an electronic format. However, collection reports and invoices for schools should be sent directly to the relevant named person on each site.

5.0 CONTRACT SERVICE OUTPUTS

5.1 Service Output 1: Collection of dry recycling

- 5.1.1 The Contractor shall initially be required to provide services that at least match the current service level of a site with the aim of rolling out a consistent recycling service to all sites (where appropriate) in conjunction with the Council.
- 5.1.2 The Contractor will not be responsible for provision and emptying of local office collection containers. All recyclables will be collected from centralised bin compounds.
- 5.1.3 When full, any central containers will be emptied and / or replaced with an equivalent empty container by the Contractor.
- 5.1.4 The Contractor should outline cost-effective solutions whereby compaction or additional storage can be supplied to facilitate a reduction in the costs of this service.
- 5.1.5 All recyclable waste must be sent to a licensed re-processor and appropriate paper work must be provided to the Council to demonstrate this.

5.2 Service Output 2: Collection and disposal of residual waste

- 5.2.1 Existing service arrangements at each site is detailed in Schedule 3 schedule of properties. The Contractor shall initially be required to provide services that provide at least the equivalent container volume per week.
- 5.2.2 It is a condition of this contract that all containers must be on site and the service fully operational by 1st September 2021.

5.2.3 As part of a continual improvement strategy, the Contractor and the Council shall monitor the use of containers. At 3 monthly intervals, or earlier if circumstances require, the number of containers and frequency of collection at each site shall be reviewed therefore the service provision at each site may be reduced or increased as necessary to suit the type and level of waste arising.

5.2.4 All residual waste must be disposed of in a licensed site and appropriate paperwork must be provided to the Council to demonstrate this.

5.3 Service Output 3: Collection and destruction of confidential waste paper

5.3.1 The Contractor must be able to demonstrate full compliance with BS EN 15713 - Code of Practice for the Secure Destruction of Confidential Materials.

5.3.2 A certificate of destruction must be issued to the Council upon completion for each unit/batch.

5.3.3 All paper should be recycled and a certificate of recycling should be issued to the Council on completion.

5.3.4 The Contractor shall collect/empty/swap confidential waste containers from each property as and when requested.

5.4 Service Output 4: Potential additional services

Collection of WEEE (Waste Electronic & Electrical Equipment)

5.4.1 From time to time the Council has small quantities of WEEE which will need to be collected. All WEEE must be recycled as existing regulations permit.

Additional Collections

5.4.2 Where excess waste has been generated or additional collections are requested the Contractor should make arrangements within 48 hours and the additional charge levied should be at the same rate as usual collections.

Skip service

5.4.3 The Contractor's tender includes a standard price for skip / FEL container hire services. There is no estimate for the amount of work which may be required but on an ad-hoc basis individual departments will need to hire in skips.

5.4.4 The majority of this waste will be inert construction and demolition wastes i.e. brick/concrete/gypsum products from minor project works. As such the Council expects to see proposals which can offer an opportunity for this waste to be recovered.

Collection of food waste

5.4.5 Many of the Council's sites include canteens and kitchen facilities which produce significant amounts of food waste. At present there is almost no segregation of this material and it goes in the general waste to landfill (or in some premises

down the sink to sewage disposal via macerator units). As part of the Council's commitment to sustainability we would like the Contractor to outline cost-effective proposals for the collection of source-separated food waste. Your proposal should detail operational plans to include as a minimum containment and collection frequency which can be offered and requirements for the client in terms of separation.

- 5.4.6 It is likely that, should any Council buildings wish to take any such proposal further this would be initiated as trial in one or two buildings before a full roll out. Please provide a price for collection and treatment with delivery to a suitable (Animal By-Products Regulation - ABPR compliant) facility of the Contractor's choosing.

Collection of hazardous waste

- 5.4.7 Where the Council requires hazardous waste to be removed by the Contractor it is to be accompanied by an appropriate COSHH material safety data sheet.
- 5.4.8 The discovery of any medical waste and hypodermic needles that may have been in contact with body fluids found on site must be reported to the Council who will then arrange for safe and legal disposal.

Waste Reduction

- 5.4.9 The Council is keen to reduce the amount of waste produced and would welcome additional support which the Contractor may be able to provide for example provision of compost bins or support with employee awareness schemes.

6.1 Service Output 5: Waste collection procedures and containers

Procedures

- 6.1.1 All collections shall normally be made between the Council's core operating times which are 08:00hrs and 18:00hrs Monday to Friday only. The Contractor will not be required to collect waste and recycling on bank holidays as most Council buildings are closed. Where a scheduled collection falls on a bank holiday a catch-up collection will be required within 24 hrs. However, should it be a requirement of the property for out of hours collection visits due to the nature of the property such local arrangements shall not involve the Council in overtime payments to their own or Contractor's staff.
- 6.1.2 The Council and the Contractor shall maintain a clean and tidy area around the bins, in particular with regard to access and egress routes such as doorways, corridors, stairs and pedestrian and traffic routes through the site.
- 6.1.3 The Contractor shall be responsible for periodically monitoring the general state of the site working area for waste management and safety purposes. Where the Contractor identifies waste that is unsuitably stored for either environmental or safety reasons, this should be documented in any exception reporting.
- 6.1.4 The Contractor is not responsible for managing waste which is not deposited in the supplied containers unless a special arrangement has been made for excess waste as part of an additional collection. Where waste is deposited around the containers this must be reported to the Contract Administrator and it is the Council's responsibility to deal with the excess waste or request an additional pick up at the agreed call out rate.

- 6.1.5 The Contractor is to take all reasonable steps to avoid accidental spillages or discharges to the surface water drainage system. The Contractor shall provide a method statement showing what steps will be taken in the event of a spillage, which must include automatic notification of the Council.

Containers

- 6.1.6 All waste receptacles shall be provided by the Contractor and they must comply with the EN 840 Standard. All containers shall remain the property of the Contractor. The Contractor shall maintain containers to a reasonable condition. The Contractor must be able to replace or repair containers as necessary without delay or disruption to the service where the need for repair or replacement is through fair wear and tear at no expense to the Council.
- 6.1.7 All containers should be appropriate for the collection environment e.g. steel bins where there is fire risk, lockable containers where there is shared access and/or a requirement. The Contractor shall leave the container sites in a clean and tidy condition after each collection. No waste is to be left on site after collection and the containers must be locked, where applicable, and returned to the point of collection.
- 6.1.8 All initial containers should be provided to each site free of charge. However, Shropshire Council will agree to pay for replacement containers where required due to damage by a Council employee or where the container has been lost/stolen. This charge to be as Section C, Pricing Schedule of the Tender Response Document and includes delivery.

7.1 Service Output 6: Information management, monitoring and compliance

- 7.1.1 With the submission of each monthly (or other agreed period) invoice the Contractor shall provide (electronically) the following:
- Total Ltr of recycling by material and residual waste collected at each site/s
 - Total number of waste and recycling collections
 - Appropriate Waste Transfer Notes
 - Exceptions Report outlining any issues e.g. contamination
- 7.1.2 The Contractor must have the ability to submit electronic reporting of all weights within 7 days after the end of each calendar month (or other agreed period) along with their invoice.
- 7.1.3 It is important for the Council to have a comprehensive picture of the waste management service and to be able to demonstrate the full detail of this. As such the Council may undertake periodic audits and site visits of the later stages and final destinations of their waste. This allows the Contractor to demonstrate that steps have been taken to prevent the illegal treatment of waste.
- 7.1.4 The Contractor shall ensure that there is an auditable trail for the collection, transfer and recycling or disposal and confidential destruction of waste. This process should be mapped out in your proposal. The Contractor shall have a duty to co-operate with this process and supply any information requested by the Council.

7.1.5 The Contractor must provide the Council with copies of the following for all waste leaving the sites:

- Waste Carriers Licences
- Environmental Permits/Waste Management Licenses
- Waste Exemption Certificates
- Duty of Care Controlled Waste Transfer Notes
- Hazardous/Special Waste Consignment Notes

The Council should not incur any charges for the provision of these licences/certificates/notes these are to be at the Contractor's expense.

Collection Vehicles

7.1.7 The Contractor shall ensure that all vehicles used in delivery of the service are regularly serviced and safety checked daily by fully trained and certified drivers.

7.1.8 The Contractor shall be fully compliant with and operate his vehicles with due cognisance of the requirements of the Road Traffic Act 1988 (as amended) and the Road Vehicles (Construction and Use) Regulations 1986 (as amended).

7.1.9 All vehicles used in supplying the service must be fitted with audible reversing alarms; however, this does not preclude the need for the Contractor to identify areas where banksman may be required to ensure the safe reversing of his vehicles.

7.1.10 The Contractor shall survey the access/egress routes to all pick up points with a view to identifying hazards (e.g. pedestrian/vehicle interfaces) and developing a safe system of work (SSW) to reduce the risk from these identified hazards. The SSW must be issued to all drivers and a copy provided to the Contract Administrator for approval.

7.1.11 All vehicles used for collection should adhere to the latest EURO Standard for atmospheric emissions.

8.1 Service Output 7: Contract Management

8.1.1 The Contractor shall provide one main point of contact as a contract manager (the "Contract Manager"). This person should have the authority to resolve problems across all sites and locations. A suitable backup contact should also be appointed by the Contractor to cover for the Contract Manager if not available through sickness or leave.

8.1.2 The Contractor shall also provide the Council with a telephone number which will be answered at all times in case of emergencies.

8.1.3 No premium rate telephone numbers are to be used for the duration of this contract.

- 8.1.4 The Council will nominate a Contract Administrator (the “Client”) to be the main point of contact at the Council and details for this person will be provided to the Contractor. The Council will also provide a different point of contact in times of absence e.g. during periods of holiday and sickness.
- 8.1.5 The Council will encourage a partnership approach to the management of the contract. As part of this, the Contract Manager and Contract Administrator shall be expected to have a formal meeting or telephone discussion at least monthly to ensure the continued success of the contract.

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SCHEDULE 2

TUPE AND PENSION CLAUSES

Section 1 EMPLOYMENT PROVISIONS

Unless otherwise stated in each Section, the following definitions shall apply:

Contractor Personnel: all directors, officers, employees, agents, consultants and

contractors of the Contractor and/or any Sub-contractor engaged in the performance of the Contractor's obligations under this Contract;

Contractor's Final Personnel List: a list provided by the Contractor of all Contractor Personnel who will transfer under the Employment Regulations on the Service Transfer Date;

Contractor's Provisional Personnel List: a list prepared and updated by the Contractor of all Contractor Personnel who are engaged in or wholly or mainly assigned to the provision of the Services or any relevant part of the Services which it is envisaged as at the date of such list will no longer be provided by the Contractor and who are expected, if they remain in the employment of the Contractor or of any sub-contractor as the case may be until immediately before the termination date or the expiry date of the (as appropriate), would be Transferring Contractor Employees;

Data Protection Legislation means:

all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended and the guidance and codes of practice issued by the Information Commissioner or other relevant regulatory authority and applicable to a party

Direct Loss all damage, loss, liabilities, claims, actions, costs, expenses (including the cost of reasonably and necessarily incurred legal or professional services), proceedings, demands and charges whether arising under statute, contract or at common law but, to avoid doubt, excluding Indirect Losses;

Effective Date: the date(s) on which the Services (or any part of the Services), transfer from the Council to the Contractor or Sub-Contractor, and a reference to the Effective Date shall be deemed to be the date on which the employees in question transferred or will transfer to the Contractor or Sub-Contractor.

Employee Liability Information: the information that a transferor is obliged to notify to a transferee under regulation 11 of the Employment Regulations :

(a) the identity and age of the employee;

- (b) the employee's written statement of employment particulars (as required under section 1 of the Employment Rights Act 1996);
- (c) information about any disciplinary action taken against the employee and any grievances raised by the employee, where a Code of Practice issued under Part IV of the Trade Union and Labour Relations (Consolidation) Act 1992 relating exclusively or primarily to the resolution of disputes applied, within the previous two years;
- (d) information about any court or tribunal case, claim or action either brought by the employee against the transferor within the previous two years or where the transferor has reasonable grounds to believe that such action may be brought against the Contractor arising out of the employee's employment with the transferor;
- (e) information about any collective agreement that will have effect after the Effective Date or the Service Transfer Date, as the case may be, in relation to the employee under regulation 5(a) of TUPE.

Employee Liabilities: all claims, actions, proceedings, orders, demands, complaints, investigations (save for any claims for personal injury which are covered by insurance) and any award, compensation, damages, tribunal awards, fine, loss, order, penalty, disbursement, payment made by way of settlement and costs, expenses and legal costs reasonably incurred in connection with a claim or investigation related to employment including in relation to the following:

- (a) redundancy payments including contractual or enhanced redundancy costs, termination costs and notice payments;
- (b) unfair, wrongful or constructive dismissal compensation;
- (c) compensation for discrimination on grounds of sex, race, disability, age, religion or belief, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation or claims for equal pay;
- (d) compensation for less favourable treatment of part-time workers or fixed term employees;
- (e) outstanding employment debts and unlawful deduction of wages including any PAYE and national insurance contributions;
- (f) employment claims whether in tort, contract or statute or otherwise;
- (g) any investigation relating to employment matters by the Equality and Human Rights Commission or other enforcement, regulatory or supervisory body and of implementing any requirements which may arise from such investigation;

Employment Regulations: the Transfer of Undertakings (Protection of Employment) Regulations 2006 (SI 2006/246) as amended or replaced or any other regulations implementing the Acquired Rights Directive

Former Provider: a Contractor supplying services to the Council before the Service Transfer Date that are the same as or substantially similar to the Services (or any part of the Services) and shall include any sub-contractor of such Contractor (or any sub-contractor of any such sub-contractor);

Indirect Losses means loss of profits (other than profits directly and solely attributable to carrying on of the Business), loss of use, loss of production, increased operating costs, loss of business, loss of business opportunity, loss of reputation or goodwill or any other consequential or indirect loss of any nature, whether arising in tort or on any other basis;

Notified Sub-contractor: a Sub-contractor identified in Annex D to whom Transferring Council Employees and/or Transferring Former Provider Employees will transfer on a Relevant Transfer Date;

Relevant Transfer: a transfer of employment to which the Employment Regulations applies;

Replacement Services: any services which are the same as or substantially similar to the Services and which the Council receives in substitution for any of the Services following the expiry or termination of Partial Termination of this Contract, whether those services are provided by the Council internally and/or by any third party;

Replacement Provider: any third party provider of Replacement Services appointed by the Council from time to time (or where the Council is providing replacement Services for its own account, the Council);

Replacement Sub-contractor: a sub-contractor of the Replacement Provider to whom Transferring Contractor Employees will transfer on a Service Transfer Date (or any sub-contractor of any such Sub-contractor);

Retendering Information: as defined in paragraph 6.10;

Service Transfer: any transfer of the Services (or any part of the Services), for whatever reason, from the Contractor or any Sub-contractor to a Replacement Provider or a Replacement Sub-contractor;

Service Transfer Date: the date on which the Services (or any part of the Services), transfer from the Contractor or Sub-Contractor to the Council or any Replacement Provider giving rise to a Relevant Transfer;

Staffing Information: in relation to all persons identified on the Contractor's Provisional Personnel List or Contractor's Final Personnel List, as the case may be, such information as the Council may reasonably request (subject to all applicable provisions of the Data Protection Legislation, but including in an anonymised format:

- (a) their ages, dates of commencement of employment or engagement and gender;
- (b) details of whether they are employed, self employed contractors or consultants, agency workers or otherwise;
- (c) the identity of the employer or relevant contracting Party;
- (d) their relevant contractual notice periods and any other terms relating to termination of employment, including redundancy procedures, and redundancy payments;
- (e) their wages, salaries and profit sharing arrangements as applicable;
- (f) details of other employment-related benefits, including (without limitation) medical insurance, life assurance, pension or other retirement benefit schemes, share option schemes and company car schedules applicable to them;
- (g) any outstanding or potential contractual, statutory or other liabilities in respect of such individuals (including in respect of personal injury claims);
- (h) details of any such individuals on long term sickness absence, parental leave, maternity leave or other authorised long term absence;
- (i) copies of all relevant documents and materials relating to such information, including copies of relevant contracts of employment (or relevant standard contracts if applied generally in respect of such employees); and
- (j) any other Employee Liability Information

Sub-Contractor: the contractors engaged by the Contractor to provide goods, services or works to, for or on behalf of the Contractor for the purposes of providing the Services to the Council.

Transferring Council Employees: employees of the Council whose contracts of employment transfer with effect from the Effective Date to the Contractor by virtue of the application of the Employment Regulations. A list of the Transferring Council Employees, as at the date of execution of the Agreement, is attached at Annex B.

Transferring Former Provider Employees: employees of a Former Provider whose contracts of employment transfer with effect from the Effective Date to the Contractor or Sub-Contractor by virtue of the application of the Employment Regulations. An indicative list of the Transferring Former Provider Employees, as at the date of execution of the Agreement, is attached at Annex C.

Transferring Contractor Employees: those employees of the Contractor and/or the Contractor's Sub-contractors wholly or mainly engaged in the provision of the Services as the case may be as immediately before the expiry date or the termination date of the Contract to whom the Employment Regulations will apply on the Service Transfer Date whose contracts of employment transfer with effect from the Service Transfer Date to the Council or a Replacement Service Provider

2. INTERPRETATION

Where a provision in this Schedule imposes an obligation on the Contractor to provide an indemnity, undertaking or warranty, the Contractor shall procure that each of its Sub-contractors shall comply with such obligation and provide such indemnity, undertaking or warranty to the Council, Former Provider, Replacement Provider or Replacement Sub-contractor, as the case may be.

3. PROCEDURE IN THE EVENT OF TRANSFER

3.1 The Council and the Contractor agree that the commencement of the provision of the Services or of any part of the Services will not be a Relevant Transfer in relation to any employees of the Council and/or any Former Provider.

3.2 If any employee of the Council and/or a Former Provider claims, or it is determined in relation to any employee of the Council and/or a Former Provider, that his/her contract of employment has been transferred from the Council and/or the Former

Provider to the Contractor and/or any Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive then:

- (a) the Contractor shall, and shall procure that the relevant Sub-contractor shall, within five Working Days of becoming aware of that fact, give notice in writing to the Council and, where required by the Council, give notice to the Former Provider; and
- (b) the Council and/or the Former Provider may offer (or may procure that a third party may offer) employment to such person within 15 Working Days of the notification by the Contractor or the Sub-contractor (as appropriate) or take such other reasonable steps as the Council or Former Provider (as the case may be) considers appropriate to deal with the matter provided always that such steps are in compliance with applicable Law.

3.3 If an offer referred to in clause 3.2(b) is accepted (or if the situation has otherwise been resolved by the Council and/or the Former Provider), the Contractor shall, or shall procure that the Sub-contractor shall, immediately release the person from his/her employment or alleged employment.

3.4 If by the end of the 15 Working Day period specified in clause 3.2(b):

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved,

the Contractor and/or the Sub-contractor may within five Working Days give notice to terminate the employment or alleged employment of such person.

4. INDEMNITIES

4.1 Subject to the Contractor and/or the relevant Sub-contractor acting in accordance with the provisions of clause 3.2 to clause 3.4 and in accordance with all applicable employment procedures set out in applicable Law and subject also to clause 4.4, the Council shall:

- (a) indemnify the Contractor and/or the relevant Sub-contractor against all Employee Liabilities arising out of the termination of the employment of any employees of the Council referred to in clause 3.2 made pursuant to the provisions of clause 3.4 provided that the Contractor takes, or shall procure that the Notified Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities; and
- (b) procure that the Former Provider indemnifies the Contractor and/or any Notified Sub-contractor against all Employee Liabilities arising out of termination of the employment of the employees of the Former Provider made pursuant to the provisions of clause 3.4

provided that the Contractor takes, or shall procure that the relevant Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

4.2 If any such person as is described in clause 3.2 is neither re employed by the Council and/or the Former Provider as appropriate nor dismissed by the Contractor and/or any Sub-contractor within the 15 Working Day period referred to in clause 3.4 such person shall be treated as having transferred to the Contractor and/or the Sub-contractor (as appropriate) and the Contractor shall, or shall procure that the Sub-contractor shall, comply with such obligations as may be imposed upon it under Law.

4.3 Where any person remains employed by the Contractor and/or any Sub-contractor pursuant to clause 4.2, all Employee Liabilities in relation to such employee shall remain with the Contractor and/or the Sub-contractor and the Contractor shall indemnify the Council and any Former Provider, and shall procure that the Sub-contractor shall indemnify the Council and any Former Provider, against any Employee Liabilities that either of them may incur in respect of any such employees of the Contractor and/or employees of the Sub-contractor.

4.4 The indemnities in clause 4.1:

(a) shall not apply to:

(i) in any case in relation to any alleged act or omission of the Contractor and/or any Sub-contractor, any claim for: (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees; or

(ii) any claim that the termination of employment was unfair because the Contractor and/or any Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in clause 3.2(a) is made by the Contractor and/or any Sub-contractor to the Council and, if applicable, Former Provider within six months of the Effective Date.

4. NOT USED

5. PROCUREMENT OBLIGATIONS

Where in this schedule the Council accepts an obligation to procure that a Former Provider does or does not do something, such obligation shall be limited so that it extends only to the extent that the Council's contract with the Former Provider contains a contractual right in that regard which the Council may enforce, or otherwise so that it requires only that the Council must use reasonable endeavours to procure that the Former Provider does or does not act accordingly.

6. RETENDERING AND PRE-SERVICE TRANSFER OBLIGATIONS

6.1 The Contractor agrees that within 20 Working Days of the earliest of:

(a) receipt of a notification from the Council of a Service Transfer or intended Service Transfer;

(b) receipt of the giving of notice of early termination or any Partial Termination of this Contract;

(c) the date which is 12 months before the end of the Term; and

(d) receipt of a written request of the Council at any time (provided that the Council shall only be entitled to make one such request in any six month period), it shall provide at no cost to the Council and in a suitably anonymised format so as to comply with the Data Protection Legislation, the Contractor's Provisional Personnel List, together with the Staffing Information in relation to the Contractor's Provisional Personnel List and it shall provide an updated Contractor's Provisional Personnel List at such intervals as are reasonably requested by the Council.

6.2 At least 28 Working Days prior to the Service Transfer Date, the Contractor shall provide to the Council or at the direction of the Council to any Replacement Provider and/or any Replacement Sub-contractor:

(a) the Contractor's Final Personnel List, which shall identify which of the Contractor Personnel are Transferring Contractor Employees; and

(b) the Staffing Information in relation to the Contractor's Final Personnel List (insofar as such information has not previously been provided).

6.3 The Council shall be permitted to use and disclose information provided by the Contractor under clause 6.1 and clause 6.2 for the purpose of informing any prospective Replacement Provider and/or Replacement Sub-contractor.

6.4 The Contractor:

- (a) shall promptly notify the Council forthwith in writing of any material changes to the information provided pursuant to clause 6.1 and clause 6.2 as and when such changes arise; and
- (b) warrants, for the benefit of the Council, any Replacement Provider, and any Replacement Sub-contractor that all information provided pursuant to clause 6.1 and clause 6.2 shall be true and accurate in all material respects at the time of providing the information.

6.5 From the date of the earliest event referred to in clause 6.1(a), clause 6.1(b) and clause 6.1(c), the Contractor agrees, that it shall not, and agrees to procure that each Sub-contractor shall not, assign any person to the provision of the Services who is not listed on the Contractor's Provisional Personnel List and shall not without the approval of the Council (not to be unreasonably withheld or delayed):

- (a) replace or re-deploy any Contractor Personnel listed on the Contractor Provisional Personnel List other than where any replacement is of equivalent grade, skills, experience and expertise and is employed on the same terms and conditions of employment as the person he/she replaces;
- (b) make, promise, propose or permit any material changes to the terms and conditions of employment of the Contractor Personnel (including any payments connected with the termination of employment);
- (c) increase the proportion of working time spent on the Services (or the relevant part of the Services) by any of the Contractor Personnel save for fulfilling assignments and projects previously scheduled and agreed;
- (d) introduce any new contractual or customary practice concerning the making of any lump sum payment on the termination of employment of any employees listed on the Contractor's Provisional Personnel List;
- (e) increase or reduce the total number of employees so engaged, or deploy any other person to perform the Services (or the relevant part of the Services); or
- (f) terminate or give notice to terminate the employment or contracts of any persons on the Contractor's Provisional Personnel List save by due disciplinary process, and shall promptly notify, and procure that each Sub-contractor shall promptly notify, the Council or, at the direction of the Council, any Replacement Provider and any Replacement Sub-contractor of any notice to terminate employment given by the Contractor or relevant Sub-contractor or received from any persons listed on the Contractor's Provisional Personnel List regardless of when such notice takes effect.

6.6 During the Term, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Council any information the Council may reasonably require relating to the manner in which the Services are organised, which shall include:

- (a) the numbers of employees engaged in providing the Services;
- (b) the percentage of time spent by each employee engaged in providing the Services; and
- (c) a description of the nature of the work undertaken by each employee by location.

6.7 The Contractor shall provide, and shall procure that each Sub-contractor shall provide, all reasonable cooperation and assistance to the Council, any Replacement Provider and/or any Replacement Sub-contractor to ensure the smooth transfer of the Transferring Contractor Employees on the Service Transfer Date including providing sufficient information in advance of the Service Transfer Date to ensure that all necessary payroll arrangements can be made to enable the Transferring Contractor Employees to be paid as appropriate. Without prejudice to the generality of the foregoing, within 5 Working Days following the Service Transfer Date, the Contractor shall provide, and shall procure that each Sub-contractor shall provide, to the Council or, at the direction of the Council, to any Replacement Provider and/or any Replacement Sub-contractor (as appropriate), in respect of each person on the Contractor's Final Personnel List who is a Transferring Contractor Employee:

- (a) the most recent month's copy pay slip data;
- (b) details of cumulative pay for tax and pension purposes;
- (c) details of cumulative tax paid;
- (d) tax code;
- (e) details of any voluntary deductions from pay; and
- (f) bank/building society account details for payroll purposes.

6.8 The Council regards compliance with this paragraph 6 as fundamental to the Agreement. In particular, failure to comply with paragraphs 6.1 and 6.2 in respect of the provision of accurate information about the Transferring Contractor Employees shall entitle the Council to suspend payment of the Charges until such information is provided, or indefinitely. The maximum sum that may be retained under this paragraph 6.8 shall not exceed an amount equivalent to the Charges that would be payable in the [three] month period following the Contractor's failure to comply with paragraphs 6.1 or 6.2, as the case may be.

6.9 Any change to the Staffing Information which would increase the total employment costs of the staff in the [six] months prior to termination of this Agreement shall not (so far as reasonably practicable) take place without the Council's prior written consent, unless such changes are required by law. The Contractor shall supply to the Council full particulars of such proposed changes and the Council shall be afforded reasonable time to consider them.

6.10 The Contractor shall indemnify and shall keep indemnified in full the Council and at the Council's request any Replacement Provider against all Direct Losses arising from any claim by any party as a result of the Contractor or sub-contractor failing to provide or promptly to provide the Council and/or any Replacement Provider where requested by the Council with any information required under this Clause 6.1 to 6.4 inclusive ("the Retendering Information") and/or Employee Liability Information or to provide full Retendering Information and/or Employee Liability Information or as a result of any material inaccuracy in or omission from the Retendering Information and/or Employee Liability Information provided that this indemnity shall not apply to the extent that such information was originally provided to the Contractor or any sub-contractor by the Council and was materially inaccurate or incomplete when originally provided.

7. EMPLOYMENT REGULATIONS EXIT PROVISIONS

7.1 The Council and the Contractor acknowledge that subsequent to the commencement of the provision of the Services, the identity of the provider of the Services (or any part of the Services) may change (whether as a result of termination or Partial Termination of this Contract or otherwise) resulting in the Services being undertaken by a Replacement Provider and/or a Replacement Sub-contractor. Such change in the identity of the Contractor of such services may constitute a Relevant Transfer to which the Employment Regulations and/or the Acquired Rights Directive will apply. The Council and the Contractor further agree that, as a result of the operation of the Employment Regulations, where a Relevant Transfer occurs, the contracts of employment between the Contractor and the Transferring Contractor Employees (except in relation to any contract terms disappplied through operation of regulation 10(2) of the Employment Regulations) will have effect on and from the Service Transfer Date as if originally made between the Replacement Provider and/or a Replacement Sub-contractor (as the case may be) and each such Transferring Contractor Employee.

7.2 The Contractor shall, and shall procure that each Sub-contractor shall, comply with all its obligations in respect of the Transferring Contractor Employees arising under the Employment Regulations in respect of the period up to (and including) the Service Transfer Date and shall perform and discharge, and procure that each Sub-contractor shall perform and discharge, all its obligations in respect of all the Transferring Contractor Employees and other employees or former employees of the Contractor or each Sub-contractor (who had been engaged in the provision of the Services) arising in respect of the period up to (and including) the Service Transfer Date (including the payment of all remuneration, benefits, entitlements and outgoings, all wages, accrued but untaken holiday pay, bonuses, commissions, payments of PAYE, national insurance contributions and pension contributions which in any case are attributable in whole or in part to the period ending on (and including) the Service Transfer Date) and any necessary apportionments in respect of any periodic payments shall be made between: (i) the Contractor and/or the Sub-contractor (as appropriate); and (ii) the Replacement Provider and/or Replacement Sub-contractor.

7.3 Subject to clause 7.4, the Contractor shall indemnify the Council and/or the Replacement Provider and/or any Replacement Sub-contractor against any Employee Liabilities in respect of any Transferring Contractor Employee (or, where applicable any employee representative as defined in the Employment Regulations) arising from or as a result of:

- (a) any act or omission of the Contractor or any Sub-contractor whether occurring before, on or after the Service Transfer Date;
- (b) the breach or non-observance by the Contractor or any Sub-contractor occurring on or before the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (ii) any other custom or practice with a trade union or staff association in respect of any Transferring Contractor Employees which the Contractor or any Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Contractor or a Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or before the Service Transfer Date;

(d) any proceeding, claim or demand by HMRC or other statutory Council in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:

(i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising on and before the Service Transfer Date; and

(ii) in relation to any employee who is not a Transferring Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor to the Council and/or Replacement Provider and/or any Replacement Sub-contractor, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising on or before the Service Transfer Date;

(e) a failure of the Contractor or any Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period up to (and including) the Service Transfer Date);

(f) any claim made by or in respect of any person employed or formerly employed by the Contractor or any Sub-contractor other than a Transferring Contractor Employee for whom it is alleged the Council and/or the Replacement Provider and/or any Replacement Sub-contractor may be liable by virtue of this Contract and/or the Employment Regulations and/or the Acquired Rights Directive; and

(g) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Provider Employee relating to any act or omission of the Contractor or any Sub-contractor in relation to its obligations under regulation 13 of the Employment Regulations, except to the extent that the liability arises from the failure by the Council and/or Replacement Provider to comply with regulation 13(4) of the Employment Regulations.

7.4 The indemnities in clause 7.3 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Replacement Provider and/or any Replacement Sub-contractor whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities:

- (a) arising out of the resignation of any Transferring Contractor Employee before the Service Transfer Date on account of substantial detrimental changes to his/her working conditions proposed by the Replacement Provider and/or any Replacement Sub-contractor to occur in the period on or after the Service Transfer Date); or
- (b) arising from the Replacement Provider's failure, and/or Replacement Sub-contractor's failure, to comply with its obligations under the Employment Regulations.

7.5 If any person who is not a Transferring Contractor Employee claims, or it is determined in relation to any person who is not a Transferring Contractor Employee, that his/her contract of employment has been transferred from the Contractor or any Sub-contractor to the Replacement Provider and/or Replacement Sub-contractor pursuant to the Employment Regulations or the Acquired Rights Directive, then:

- (a) the Council shall procure that the Replacement Provider shall, or any Replacement Sub-contractor shall, within five Working Days of becoming aware of that fact, give notice in writing to the Contractor; and
- (b) the Contractor may offer (or may procure that a Sub-contractor may offer) employment to such person within 15 Working Days of the notification by the Replacement Provider and/or any and/or Replacement Sub-contractor or take such other reasonable steps as it considers appropriate to deal with the matter provided always that such steps are in compliance with Law.

7.6 If such offer is accepted, or if the situation has otherwise been resolved by the Contractor or a Sub-contractor, the Council shall procure that the Replacement Provider shall, or procure that the Replacement Sub-contractor shall, immediately release or procure the release of the person from his/her employment or alleged employment.

7.7 If after the 15th Working Day period specified in clause 7.5(b) has elapsed:

- (a) no such offer of employment has been made;
- (b) such offer has been made but not accepted; or
- (c) the situation has not otherwise been resolved

the Council shall advise the Replacement Provider and/or Replacement Sub-contractor, as appropriate that it may within five Working Days give notice to terminate the employment or alleged employment of such person.

7.8 Subject to the Replacement Provider and/or Replacement Sub-contractor acting in accordance with the provisions of clause 7.5 to clause 7.7, and in accordance with all applicable proper employment procedures set out in applicable Law, the Contractor shall indemnify the Replacement Provider and/or Replacement Sub-contractor against all Employee Liabilities arising out of the termination pursuant to the provisions of clause 7.7 provided that the Replacement Provider takes, or shall procure that the Replacement Sub-contractor takes, all reasonable steps to minimise any such Employee Liabilities.

7.9 The indemnity in clause 7.8:

(a) shall not apply to:

(i) in any case in relation to any alleged act or omission of the Replacement Provider and/or Replacement Sub-contractor, any claim for: (A) discrimination, including on the grounds of sex, race, disability, age, gender reassignment, marriage or civil partnership, pregnancy and maternity or sexual orientation, religion or belief; or (B) equal pay or compensation for less favourable treatment of part-time workers or fixed-term employees; or

(ii) any claim that the termination of employment was unfair because the Replacement Provider and/or Replacement Sub-contractor neglected to follow a fair dismissal procedure; and

(b) shall apply only where the notification referred to in clause 7.5(a) is made by the Replacement Provider and/or Replacement Sub-contractor to the Contractor within six months of the Service Transfer Date.

7.10 If any such person as is described in clause 7.5 is neither re-employed by the Contractor or any Sub-contractor nor dismissed by the Replacement Provider and/or Replacement Sub-contractor within the time scales set out in clause 7.5 to clause 7.7, such person shall be treated as a Transferring Contractor Employee and the Replacement Provider and/or Replacement Sub-contractor shall comply with such obligations as may be imposed upon it under applicable Law.

7.11 Not Used.

7.12 The Contractor shall, and shall procure that each Sub-contractor shall, promptly provide to the Council and any Replacement Provider and/or Replacement Sub-contractor, in writing such information as is necessary to enable the Council, the Replacement Provider and/or Replacement Sub-contractor to carry out their respective

duties under regulation 13 of the Employment Regulations. The Council shall procure that the Replacement Provider and/or Replacement Sub-contractor, shall promptly provide to the Contractor and each Sub-contractor in writing such information as is necessary to enable the Contractor and each Sub-contractor to carry out their respective duties under regulation 13 of the Employment Regulations.

7.13 Subject to clause 7.14, the Council shall procure that the Replacement Provider indemnifies the Contractor on its own behalf and on behalf of any Replacement Sub-contractor and its sub-contractors against any Employee Liabilities in respect of each Transferring Contractor Employee (or, where applicable any employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee) arising from or as a result of:

- (a) any act or omission of the Replacement Provider and/or Replacement Sub-contractor;
- (b) the breach or non-observance by the Replacement Provider and/or Replacement Sub-contractor on or after the Service Transfer Date of:
 - (i) any collective agreement applicable to the Transferring Contractor Employees; and/or
 - (ii) any custom or practice in respect of any Transferring Contractor Employees which the Replacement Provider and/or Replacement Sub-contractor is contractually bound to honour;
- (c) any claim by any trade union or other body or person representing any Transferring Contractor Employees arising from or connected with any failure by the Replacement Provider and/or Replacement Sub-contractor to comply with any legal obligation to such trade union, body or person arising on or after the Service Transfer Date;
- (d) any proposal by the Replacement Provider and/or Replacement Sub-contractor to change the terms and conditions of employment or working conditions of any Transferring Contractor Employees on or after their transfer to the Replacement Provider or Replacement Sub-contractor (as the case may be) on the Relevant Transfer Date, or to change the terms and conditions of employment or working conditions of any person who would have been a Transferring Contractor Employee but for their resignation (or decision to treat their employment as terminated under regulation 4(9) of the Employment Regulations) before the Service Transfer Date as a result of or for a reason connected to such proposed changes;

- (e) any statement communicated to or action undertaken by the Replacement Provider or Replacement Sub-contractor to, or in respect of, any Transferring Contractor Employee on or before the Service Transfer Date regarding the Relevant Transfer which has not been agreed in advance with the Contractor in writing;
- (f) any proceeding, claim or demand by HMRC or other statutory Council in respect of any financial obligation including, but not limited to, PAYE and primary and secondary national insurance contributions:
 - (i) in relation to any Transferring Contractor Employee, to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising after the Service Transfer Date; and
 - (ii) in relation to any employee who is not a Transferring Contractor Employee, and in respect of whom it is later alleged or determined that the Employment Regulations applied so as to transfer his/her employment from the Contractor or Sub-contractor, to the Replacement Contractor or Replacement Sub-contractor to the extent that the proceeding, claim or demand by HMRC or other statutory Council relates to financial obligations arising after the Service Transfer Date;
- (g) a failure of the Replacement Provider or Replacement Sub-contractor to discharge or procure the discharge of all wages, salaries and all other benefits and all PAYE tax deductions and national insurance contributions relating to the Transferring Contractor Employees in respect of the period from (and including) the Service Transfer Date; and
- (h) any claim made by or in respect of a Transferring Contractor Employee or any appropriate employee representative (as defined in the Employment Regulations) of any Transferring Contractor Employee relating to any act or omission of the Replacement Provider or Replacement Sub-contractor in relation to obligations under regulation 13 of the Employment Regulations.

7.14 The indemnities in clause 7.13 shall not apply to the extent that the Employee Liabilities arise or are attributable to an act or omission of the Contractor and/or any Sub-contractor (as applicable) whether occurring or having its origin before, on or after the Service Transfer Date, including any Employee Liabilities arising from the failure by the Contractor and/or any Sub-contractor (as applicable) to comply with its obligations under the Employment Regulations.

7.15 The parties shall co-operate to ensure that any requirement to inform and consult with the employees and or employee representatives in relation to any Relevant Transfer to a Replacement Provider will be fulfilled.

7.16 The parties agree that the Contracts (Rights of Third Parties) Act 1999 shall apply to clause 6 and 7, to the extent necessary to ensure that any Replacement Provider shall have the right to enforce the obligations owed to, and indemnities given to, the Replacement Provider by the Contractor or the Council in its own right under section 1(1) of the Contracts (Rights of Third Parties) Act 1999.

7.17 Despite clause 7.16, it is expressly agreed that the parties may by agreement rescind or vary any terms of this Agreement without the consent of any other person who has the right to enforce its terms or the term in question despite that such rescission or variation may extinguish or alter that person's entitlement under that right.

Section 2 Pensions NOT USED

Annex A. Admission Agreement NOT USED

Annex B. Transferring Council Employees NOT USED

Annex C. Transferring Former Provider Employees NOT USED

Annex D. List of Notified Sub-contractors NOT USED

Schedule 3

Processing, Personal Data and Data Subjects

This Schedule shall be completed by the Data Controller, who may take account of the view of the Data Processors, however the final decision as to the content of this Schedule shall be with the Controller at its absolute discretion.

1. The contact details of the Data Controller's Data Protection Officer are: Information Governance Officer email: Information.Request@Shropshire.gov.uk
2. The contact details of the Data Processor's Data Protection Officer are: **[Insert Contact details]**
3. The Data Processor shall comply with any further written instructions with respect to processing by the Data Controller.
4. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Identity of the Data Controller and Data Processor	The Parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Data Controller and the Contractor is the Data Processor in accordance with Clause 18.1.
Subject matter of the processing	<i>[This should be a high level, short description of what the processing is about i.e. its subject matter]</i> <i>Example: The processing is needed in order to ensure that the Data Processor can effectively deliver the Services</i>
Duration of the processing	<i>[Clearly set out the duration of the processing including dates] The Term</i>
Nature and purposes of the processing	<i>[Please be as specific as possible, but make sure that you cover all intended purposes.]</i> <i>The nature of the processing means any operation such as</i>

	<p><i>collection, recording, organisation, structuring, storage, adaptation or alteration, retrieval, consultation, use, disclosure by transmission, dissemination or otherwise making available, alignment or combination, restriction, erasure or destruction of data (whether or not by automated means) etc.</i></p> <p><i>The purpose: to enable the Contractor to maintain a contact list for sites to enable site visits to be scheduled and service reports to be disseminated.</i></p>
Type of Personal Data	<i>Site contact names, address, job title, telephone number, email address, work address</i>
Categories of Data Subject	<i>Staff (including volunteers, (including temporary workers), site managers</i>
Plan for return and destruction of the data once the processing is complete UNLESS legal requirement to preserve that type of data	<i>For the Term only and securely destroyed on termination of the contract.</i>

Appendix A

Schedule of properties

Appendix B

Tender



Shropshire Council
Shirehall
Abbey Foregate
Shrewsbury
Shropshire SY2 6ND

Date: 19th October 2021

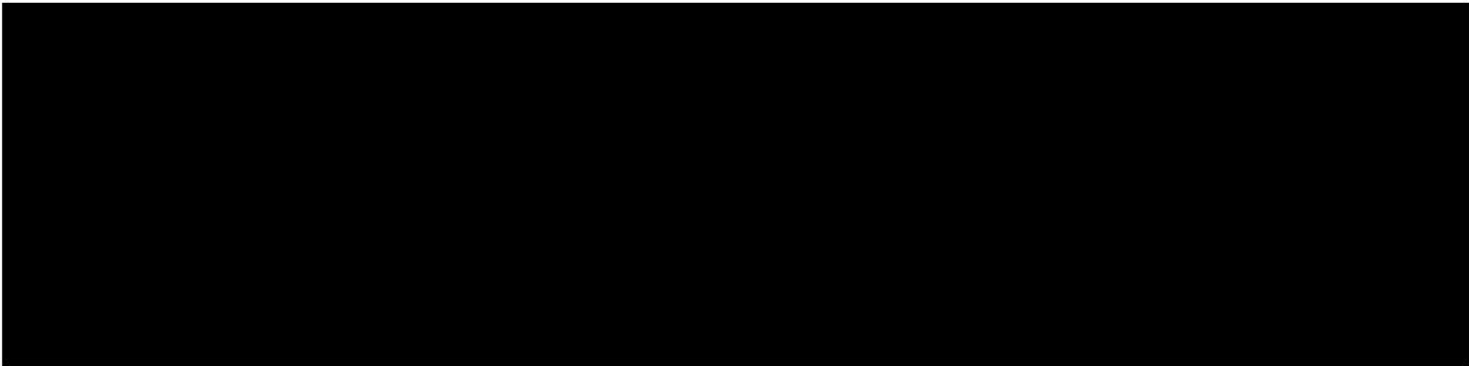
Dear Bidder

RMCB 038 - THE PROVISION OF RECYCLING AND WASTE COLLECTION SERVICES INCLUDING THE DESTRUCTION OF CONFIDENTIAL WASTE PAPER WHERE APPLICABLE FROM SHROPSHIRE COUNCIL OWNED/RUN PROPERTIES

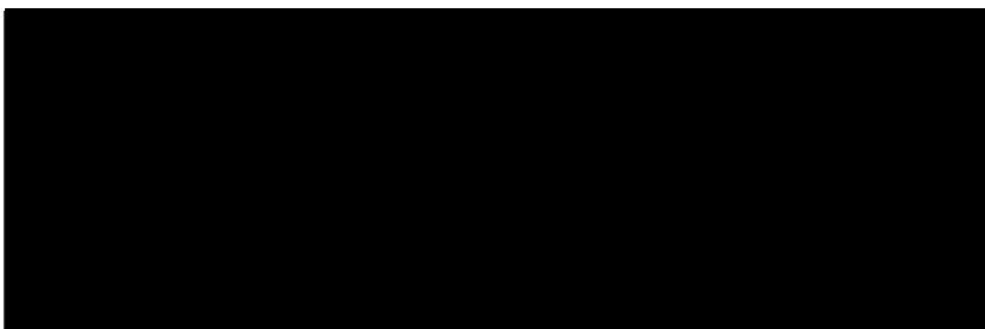
SUBJECT TO CONTRACT

This is an Award Decision Notice pursuant to The Public Contracts Regulations 2015 (the "Regulations").


We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer to form part of the above proposed contract as set out in your recent tender.

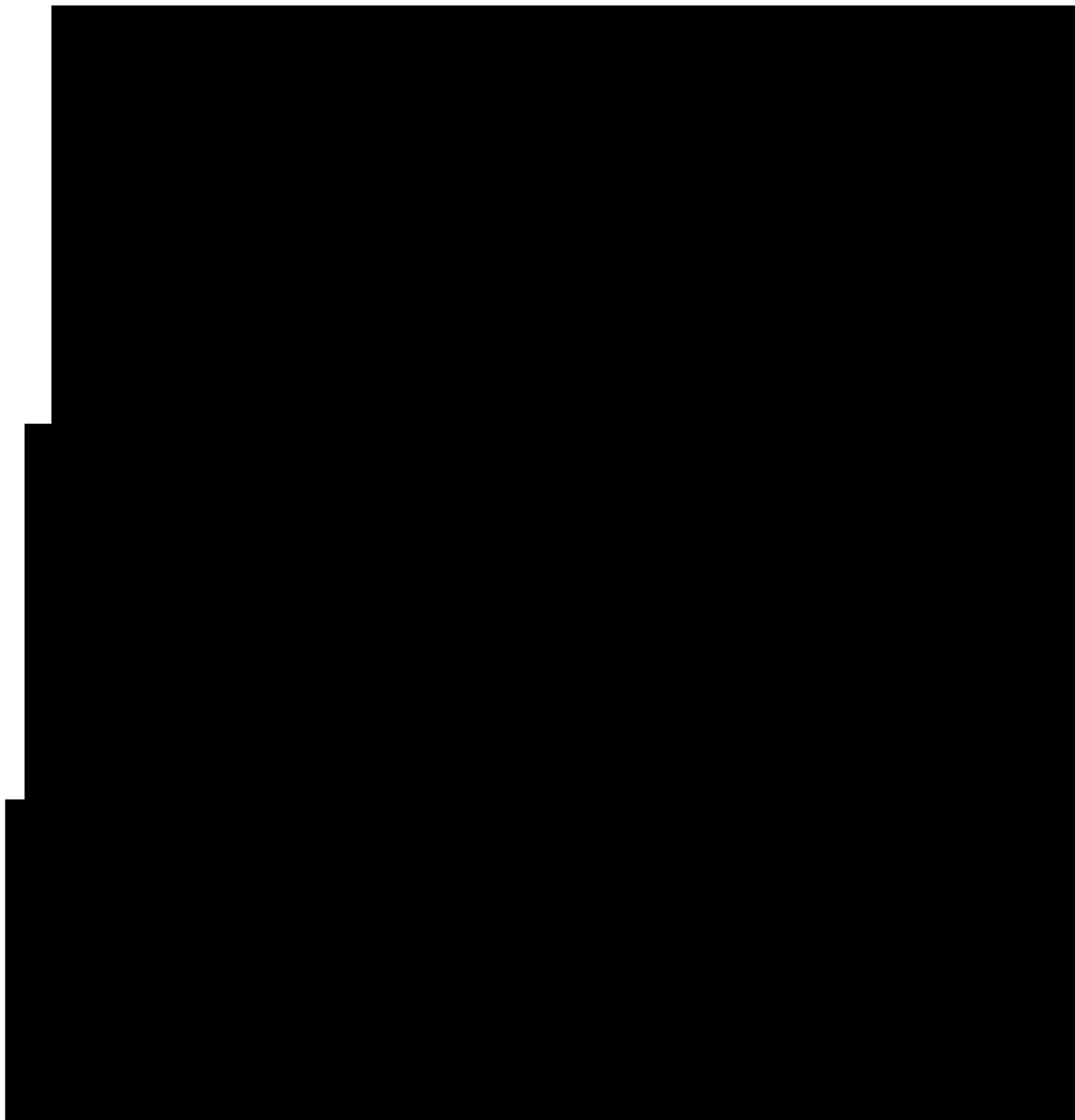


We can confirm that your tender received the following scores and ranking:



Please find details of the marks allocated to you for Quality and reasoning behind the marks as follows:

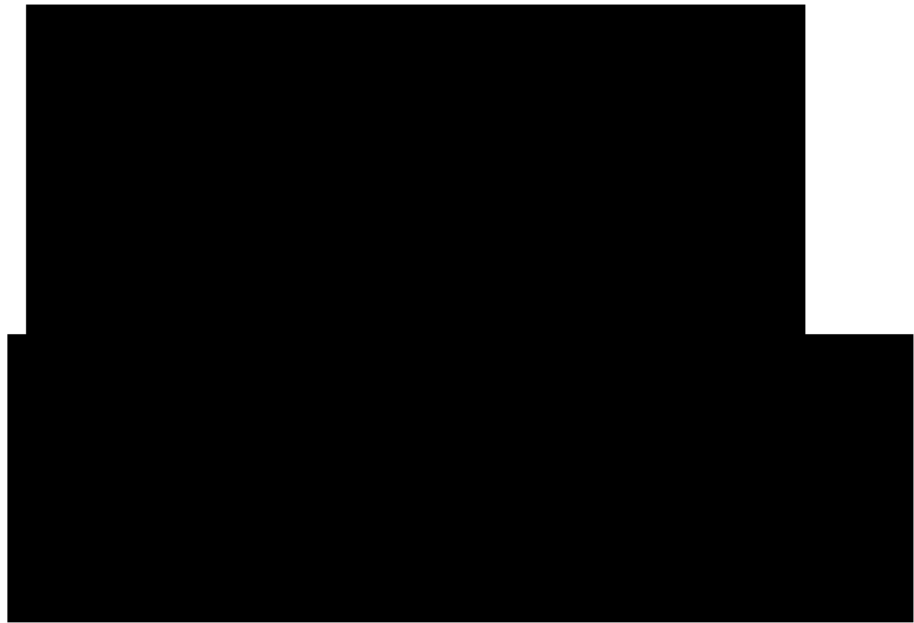






We will be in touch with you again at the end of the standstill period.

Yours faithfully



UK-Shrewsbury: Refuse and waste related services.

UK-Shrewsbury: Refuse and waste related services.

Section I: Contracting Authority

I.1) Name, Addresses and Contact Point(s):

Shropshire Council
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom

Contact: Procurement

Main Address: www.shropshire.gov.uk

NUTS Code: UKG22

I.2) Joint procurement:

The contract involves joint procurement: No

In the case of joint procurement involving different countries, state applicable national procurement law: Not Provided

The contract is awarded by a central purchasing body: No

I.4) Type of the contracting authority:

Regional or local authority

I.5) Main activity:

General public services

Section II: Object Of The Contract

II.1) Scope of the procurement

II.1.1) Title: RMCB 038 - The Provision of Recycling and Waste Collection Services including the Destruction of Confidential Waste Paper where applicable from Shropshire Council Owned/Run Properties

Reference number: RMCB 038

II.1.2) Main CPV code:

90500000 - Refuse and waste related services.

II.1.3) Type of contract: SERVICES

II.1.4) Short description: This is an award notice for the provision of recycling and residual waste collection services including destruction of confidential waste paper as and when required and where instructed from Shropshire Council owned/run properties throughout the County of Shropshire.

II.1.6) Information about lots

This contract is divided into lots: No

Currency: GBP

II.2) Description

II.2.2) Additional CPV code(s):

Not Provided

II.2.3) Place of performance

Nuts code:

UKG22 - Shropshire CC

Main site or place of performance:
Shropshire CC

II.2.4) Description of the procurement: This is an award notice for the provision of recycling and residual waste collection services including destruction of confidential waste paper as and when required and where instructed from Shropshire Council owned/run properties throughout the County of Shropshire.

II.2.5) Award criteria:
Quality criterion - Name: Quality / Weighting: 60

Cost criterion - Name: Price / Weighting: 40

II.2.11) Information about options
Options: No

II.2.13) Information about European Union funds
The procurement is related to a project and/or programme financed by European Union funds:
No

II.2.14) Additional information: Not Provided

Section IV: Procedure

IV.1) Description

IV.1.1) Type of procedure: Open

IV.1.3) Information about a framework agreement or a dynamic purchasing system
The procurement involves the establishment of a framework agreement: No

IV.1.6) Information about electronic auction
An electronic auction has been used: No

IV.1.8) Information about the Government Procurement Agreement (GPA)
The procurement is covered by the Government Procurement Agreement: No

IV.2) Administrative information

IV.2.1) Previous publication concerning this procedure
Notice number in the OJEU: 2021/S 000-020692

IV.2.9) Information about termination of call for competition in the form of a prior information notice
The contracting authority will not award any further contracts based on the above prior information notice: No

Section V: Award of contract

Award Of Contract (No.1)

Contract No: Not Provided
Lot Number: Not Provided
Title: Not Provided

A contract/lot is awarded: Yes

V.2) Award of contract

V.2.1) Date of conclusion of the contract: 01/11/2021

V.2.2) Information about tenders

Number of tenders received: 3

Number of tenders received from SMEs: Not Provided

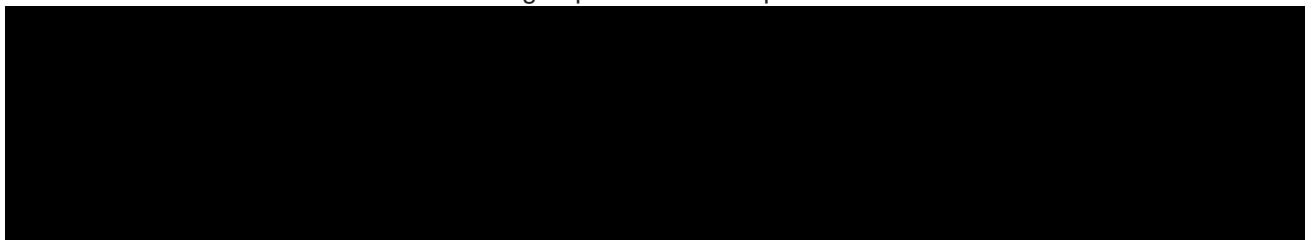
Number of tenders received from tenderers from other EU Member States: 0

Number of tenders received from tenderers from non-EU Member States: 0

Number of tenders received by electronic means: 3

V.2.3) Name and address of the contractor

The contract has been awarded to a group of economic operators: No



V.2.4) Information on value of the contract/lot (excluding VAT)

Initial estimated total value of the contract/lot: Not Provided

Total value of the contract/lot: 355,510

Currency: GBP

V.2.5) Information about subcontracting

The contract is likely to be subcontracted: No

Section VI: Complementary information

VI.3) Additional information: The contracting authority considers that this contract may be suitable for economic operators that are small or medium enterprises (SMEs). However, any selection of tenderers will be based solely on the criteria set out for the procurement.

To view this notice, please click here:

<https://www.delta-esourcing.com/delta/viewNotice.html?noticeId=637992393>

VI.4) Procedures for review

VI.4.1) Review body

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom



VI.4.3) Review procedure

Precise information on deadline(s) for review procedures: Not Provided

VI.4.4) Service from which information about the review procedure may be obtained

Shropshire Council

Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom



VI.5) Date of dispatch of this notice: 01/11/2021