

## **GB-Shrewsbury: ROCB 012 - Maintenance of Building Management Systems**

### Competitive Contract Notice

1. Title: GB-Shrewsbury: ROCB 012 - Maintenance of Building Management Systems
2. Awarding Authority:  
Shropshire Council  
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom  
Tel. +44 1743252992, Fax. +44 1743253910, Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk), URL:  
[www.shropshire.gov.uk](http://www.shropshire.gov.uk)  
Contact: Procurement, Attn: Procurement
3. Contract Type: Services  
Sub Type: Maintenance and repair services.

4. Description: Repair and maintenance services. The contract shall comprise of carrying out of carrying out the planned annual inspection and reactive maintenance of Building Management Systems (BMS), together with ancillary equipment installed on Shropshire Council controlled premises, to ensure that they provide best performance and are maintained in a safe condition.

This contract is for an initial 12 months with an option to extend for a further 3 years commencing on 1st May 2018.

5. CPV Codes:  
50000000 - Repair and maintenance services.

6. NUTS Codes :  
UKG22 - Shropshire CC

7. Main Site or Location of Works, Main Place of Delivery or Main Place of Performance: Shropshire CC,

8. Reference Attributed by the Awarding Authority: ROCB 012

9. Estimated Value of Requirement: Category I: 50K to 100K  
Currency: GBP

10. Deadline for Expression of Interest: 03/04/2018 12:00:00

11. Address to which they must be sent:

Shropshire Council  
Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND, United Kingdom  
Tel. +44 1743252992, Fax. +44 1743253910, Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk), URL:  
[www.shropshire.gov.uk](http://www.shropshire.gov.uk)  
Contact: Procurement, Attn: Procurement

12. Other Information:

Other 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-GB-Shrewsbury:-ROCB-012---Maintenance-of-Building-Management-Systems/N22TZ46784>

To respond to this opportunity, please click here:

<https://www.delta-esourcing.com/respond/N22TZ46784>

Suitable for VCO: Yes

Procedure Type: OPEN

Period of Work Start date: 01/05/2018

Period of Work End date: 30/04/2022

Is this a Framework Agreement?: no



27<sup>th</sup> February 2018

**Tel:** (01743) 252993

**Fax:** (01743) 255901

Email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk)

Dear Bidder

**ROCB 012 – MAINTENANCE OF BUILDING MANAGEMENT SYSTEMS  
SHROPSHIRE COUNCIL**

You have been invited to tender for on or more of the above Lots in connection with the above requirement. With this letter please find copies of the following documents:

1. Instructions for Tendering (for completion and return)
2. Tender Response Document (for completion and return)
3. Contract for Maintenance of Building Management Services
4. Appendix A - Servicing Schedule 2018
5. Appendix B - Property Schedule
6. BMS Specification

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. You are recommended to keep a copy of all tender documents and supporting documents for your own records.

Please pay particular attention to the points below concerning the returning of tenders.

**Returning of Tenders**

- The deadline for returning tenders is **noon on 3<sup>rd</sup> April 2018** 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 27<sup>th</sup> March 2018.

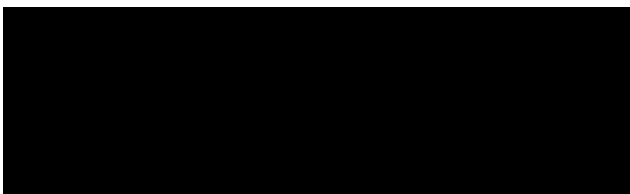
As part of its sustainability policy, Shropshire Council encourages tenderers to minimise packaging, particularly presentational or retail packaging.

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](http://www.shropshire.gov.uk/doing-business-with-shropshire-council).

If you have any queries relating to this invitation to tender, please contact me through email: [procurement@shropshire.gov.uk](mailto:procurement@shropshire.gov.uk).

Yours faithfully



Commissioning Development & Procurement Manager  
Place & Enterprise  
Shropshire Council

**BMS Controllers:****SHROPSHIRE COUNCIL – TENDER NO – ROCB 012  
SERVICING SCHEDULE**

In order to maintain the Building Management System in its optimum condition, the Client should ensure that maintenance of the system is undertaken by an approved contractor.

Item No	Item	Action	Notes	Comments
1	General	All equipment shall be inspected, tested and maintained in strict accordance with the specification and the below instructions.	Ensure that a log book is in possession of the Site Manager, Site Manager/Representative including any drawings if required.	
2	Personnel Competencies	The Contractor shall employ a competent approved person to carry out the servicing of building management systems.		
3	BMS Controllers	<p>Visually inspect electronic control components &amp; PCB condition</p> <p>Make back up of any resident software</p> <p>Power-down control system and Test battery back-up</p> <p>Test power supply level and calibration of low voltage power settings</p> <p>Check controller settings and record all values</p> <p>Check time and date settings</p> <p>Check school holiday dates (school sites only)</p> <p>Check system parameters</p> <p>Check security of all electrical connections</p> <p>Check earthing to control system</p> <p>Check screening on out-going cables</p> <p>Confirm controls operate in-line with design specification</p> <p>View alarm messages and record</p> <p>Check plant start-up sequence</p> <p>Check output command relays</p> <p>Check plant shut-down sequence</p> <p>Check plant fire shut-down operation</p> <p>Check operation of all panel lamps</p> <p>Check motor overload for setting and operation</p> <p>Check operation of contactors</p> <p>Check all Frost protection programs and function</p>		

## APPENDIX A

Item No	Item	Action	Notes	Comments
4	BMS Field Devices	<p>Test operation of all valve actuators and check general cleanliness</p> <p>Test operation of all damper actuators and check general cleanliness</p> <p>Test operation of all sensors and check general cleanliness</p> <p>Test operation of all transducers</p> <p>Check operation of all digital inputs and outputs</p> <p>Check relay operation and condition</p> <p>Re-calibrate all sensors (as necessary) and record on report</p> <p>Re-calibrate all transducers (as necessary) and record on report</p> <p>Re-calibrate valve start points and actuator travel times and record on report</p> <p>Test shut-off operation of spring return actuators</p> <p>Test operation of high-low limit thermostats</p> <p>Test operation of frost thermostats and record settings</p> <p>Test operation of pressure switches</p> <p>Check control valve operation (let-by, shut-off &amp; leakage)</p> <p>Test emergency stop button operation (providing it is safe to do so)</p> <p>Test Fire/Smoke Shut-down operation (providing it is safe to do so)</p>		
Item No	Item	Action	Notes	Comments
5	BMS Central Supervisor:	<p>Obtain and record all passwords for the personal computer</p> <p>Identify and up-grade the virus checker</p> <p>Back-up personal computer hard drive</p> <p>Check operation of floppy disk drive, usb and any other backup device</p> <p>Power-down, remove covers and vacuum out all dust</p> <p>Check operation of power supply cooling fan</p> <p>Check operation of processor cooling fan</p> <p>Inspect all power connections for security.</p> <p>Replace lithium battery and label showing date changed</p> <p>Check all serial and parallel connection point</p> <p>Power-up personal computer</p>		

		Remove all temporary files Check remaining disk space and record Remove old alarms to free-up space on hard disk Clean keyboard, mouse and screen Re-start and check time and date Check communication to the Building Management System network Check operation of all BMS function		
Item No	Item	Action	Notes	Comments
6	Engineer Energy Check Sheet	Compare occupancy times against actual times Make use of free energy by modifying control programmes Installing temperature dependent Duty Cycling software Installing time dependent Duty Cycling software Setting-up Normal and Energy modes for each plant Re-assessments of building usage versus original control system design Undertaking point of control routine Maintenance of systems Increase all Cooling Set-points to 24 Deg C Reduce Heating Set-points to 20 Deg C Modify Software to give a wider free Energy zone (No heating or Cooling) Include Optimum Stop of plant Reduce Optimum Start period to limit pre-heat times Allow Optimum Start Target Temperature to be lower than day set-point Allow Optimum Stop Temperature to be lower than day set-point Disable Chiller plant prior to the end of occupancy Boiler control software, hold off boiler longer if less demand Check requirements for DHW, Do all boilers run to provide DHW? Shut down plant between set temperatures, i.e.: 20 and 24 Deg C Analyse Historic data from Graphs plotted on BMS Enable Free Cooling (Night Purge) during Non-Occupancy period Temperature Demand Plant ON & OFF Monitor and Target Energy used.		

Site code	Site Description	Site Address	Type of Equipment	Type Description	Due Date
0245	Bishop Hooper CE Primary School	Ashford Carbonell, LUDLOW, SY8 4BY	Trend IQ3	Yearly Inspection	20/06/2018
0290	Oakmeadow CE Primary and Nursery School	Long Meadow, Bayston Hill, SHREWSBURY, SY3 0NU	Trend IQ3	Yearly Inspection	09/05/2018
0335	Bicton CE (Controlled) Primary School	Bicton Lane, Bicton, S'Bury, SY3 8EH	Trend IQ3	Yearly Inspection	07/07/2018
0380	Castlefields Primary School	Castlefields, BRIDGNORTH, WV16 5DQ	TREND IQ422 IQ VIEW 4	Yearly Inspection	18/05/2018
0400	St Leonards CE Primary School	Innage Lane, BRIDGNORTH, WV16 4HL	TREND and DC111	Yearly Inspection	19/05/2018
0440	Broseley CE Primary School	Dark Lane, BROSELEY, TF12 5LW	TREND IQ422 IQ VIEW 4	Yearly Inspection	16/05/2018
0460	John Wilkinson Primary School	Coalport Road, BROSELEY, TF12 5AN	TREND IQ422 IQ	Yearly Inspection	26/05/2018
0490	Buntingsdale Primary School and Nursery	Buntingsdale Park, Tern Hill, MARKET DRAYTON, TF9 2HB	Trend IQ3	Yearly Inspection	15/06/2018
0570	Cheswardine Primary School	Glebe Close, Cheswardine, MARKET DRAYTON, TF9 2RU	TREND IQ422 IQ VIEW 4	Yearly Inspection	25/07/2018
0930	Trinity CE Primary School	Butt Lane, Ford, SHREWSBURY, SY5 9LG	TREND IQ422 IQ VIEW 4	Yearly Inspection	07/06/2018
0970	St Thomas and St Annes CE Primary School	Hanwood, SHREWSBURY, SY5 8JN	TREND IQ422 IQ VIEW 4	Yearly Inspection	08/06/2018
1240	Ludlow Infant School and Nursery	Sandpits Road, LUDLOW, SY8 1HG	TREND	Yearly Inspection	31/05/2018
1365	Morda CE (Voluntary Controlled) Primary School	Morda, OSWESTRY, SY10 9NR	TREND IQ422 IQ VIEW 4	Yearly Inspection	01/09/2018
1370	Moreton Say CE Primary School	Market Drayton, TF9 3RS	TREND IQ422 IQ VIEW 4	Yearly Inspection	27/05/2018
1410	Much Wenlock Primary School	Racecourse Lane, MUCH WENLOCK, TF13 6JG	Trend IQ3	Yearly Inspection	01/06/2018
1510	Newtown CE Primary School	Newtown, WEM, SY4 5NU	TREND IQ422 IQ VIEW 4	Yearly Inspection	06/06/2018
1630	Pontesbury CE Primary School	Bogey Lane, Pontesbury, Shrewsbury, SY5 0TF	TREND IQ422 IQ VIEW 4	Yearly Inspection	08/06/2018
1650	Prees CE (Controlled) Primary School	Cross End, Prees, WHITCHURCH, SY13 2ER	TREND	Yearly Inspection	04/07/2018
1730	St Marys CE Primary School-Shawbury	Poynton Road, Shawbury, SY4 4JR	TREND IQ422 IQ VIEW 4	Yearly Inspection	03/07/2018
2000	St Georges Junior School	Woodfield Road, SHREWSBURY, SY3 8LU	TREND IQ422 IQ VIEW 4	Yearly Inspection	27/06/2018
2150	Stoke-on-Tern Primary School	Rosehill Road, Stoke Heath, MARKET DRAYTON, TF9 2LF	TREND IQ422 IQ VIEW 4	Yearly Inspection	26/06/2018
2900	Weston Rhyn Primary School	Old Chirk Road, Weston Rhyn SY10 7SR	TREND IQ422 IQ VIEW 4	Yearly Inspection	21/06/2018
2990	Long Mountain CE Primary School	Worthen, SY5 9HT	TREND IQ3	Yearly Inspection	12/10/2018
3320	Grove School	Grove School View Newcastle Road, MARKET DRAYTON, TF9 1HF	TREND	Yearly Inspection	01/04/2018
4510	The Gateway Education and Arts Centre	Chester Street, SHREWSBURY, SY1 1NB	Trend IQ3	Yearly Inspection	10/11/2018
4531	Oswestry Education Centre	College Road, Oswestry, SY11 2SA	Trend IQ3	Yearly Inspection	02/11/2018
4975	SpArC Lesiure Centre	Brampton Road, BISHOPS CASTLE, SY9 5AY	Trend IQ3	Yearly Inspection	18/11/2018
5150	Albrighton Fire Station	Newport Road, Albrighton, WOLVERHAMPTON, WV7 3EW	Cyclon	Yearly Inspection	19/07/2018
5160	Baschurch Fire Station	Station Road, BASCHURCH, SY4 2BG	Cyclon	Yearly Inspection	20/07/2018
5240	Hodnet Fire Station	Station Road, Hodnet, MARKET DRAYTON, TF9 3JB	Cyclon	Yearly Inspection	19/07/2018
5350	Wellington Fire Station	Haybridge Road, Wellington, TELFORD, TF1 2NW	Trend	Yearly Inspection	24/06/2018
5741	Ludlow Library and Museum	7/9, Parkway, LUDLOW, SY8 2PG	Landis Staefa SQS65	Yearly Inspection	18/11/2018
5790	Oswestry Library	Arthur Street, Oswestry SY11 1JN	Trend IQ3	Yearly Inspection	08/11/2018
5890	Shrewsbury Library	Castle Gates, Shrewsbury SY1 2AS	TREND IQ3	Yearly Inspection	05/09/2018
6010	Acton Scott Historic Working Farm	Acton Scott, CHURCH STRETTON, SY6 6QN	TREND	Yearly Inspection	31/01/2018
6320	Shirehall	Abbey Foregate, SHREWSBURY, SY2 6ND	TREND IQ3	Yearly Inspection	05/05/2018
6320	Shirehall	Abbey Foregate, SHREWSBURY, SY2 6ND	Siemens AS1000	Yearly Inspection	18/11/2018
9309	Theatre Severn	Frankwell, SHREWSBURY, SY3 8FT	Trend IQ3 & 963	Yearly Inspection	12/05/2018
9788	Shropshire Food Enterprise Centre	Vanguard Way, Battlefield Enterprise Park, SHREWSBURY, SY1 3TG	TREND IQ 2 Series	Yearly Inspection	26/05/2018
9525B	Ptarmigan	Sitka Drive, SHREWSBURY, SY2 6LG	TREND IQ3	Yearly Inspection	07/09/2018
NSDC020	Wem Town Hall	Wem Town Hall View High Street, WEM, SY4 5DG	Satchwell	Yearly Inspection	28/04/2018



**ROCB 012 CONTRACT SPECIFICATION**  
**DOCUMENT.**  
**MAINTENANCE OF**  
**BUILDING MANAGEMENT SYSTEMS**

Prepared by:  
Shropshire Council  
Property Services Group  
January 2018



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# **1 GENERAL CONDITIONS**

## **1.1 Definitions**

“Budget Holder” refers to the person/s responsible for the individual budget assigned to each property. The Client has delegated responsibility for most of the properties covered under the scope of this Contract, however it remains the Contractors responsibility to determine the individual arrangements for each property.

“Client” refers to Shropshire Council’s Premises Services Manager or any person appointed by them to act on their behalf – i.e. the Contract Administrator or relevant Surveyor.

“Contract” refers to agreement entered into between the Council and the Contractor to execute the works referred to within this document.

“Contractor’s Base” refers to the Contractors registered company address from which the works will be executed from.

“Contractor” refers to the company or organisation contracted to provide the services specified.

“Council” refers to Shropshire Council and any of its employees

“Normal Working Hours” is defined as being between 08:00 and 17:00 Monday to Friday excluding any bank holidays

“Out of Hours” refers to beyond the normal working hours of Monday to Friday 08:00 to 17:00

“Property” – refers to the entire premises where the inspection or repair work is to take place. This also covers the externals and roof of the premises.

“Service Personnel” refers to the Contractors staff executing the service works on site.

“Skilled Person” refers to a person who possesses, as appropriate to the nature of the works to be undertaken, adequate education, training and practical skill, and who is able to perceive risks and avoid hazards involved in the delivery of the works encompassed by this contract.

## **1.2 Contract Documentation**

The specification must be read in conjunction with, and may be modified by, other documents comprising the full tender documentation.

## **1.3 General Contract Performance**

The Client will operate a Performance Monitoring System for the Contractor working under this Contract, to enable the recording of and act on, under performance in respect of performance, price and quality.

The system will be a RAG (Red, Amber, and Green) traffic light system for any works done under the scope of the contract, this is also to include day works. A Contractor who performs adequately and in accordance with our requirements will be recorded as ‘Green’, all Contractors will start with a Green status by default.

The monitoring areas will generally be, but are not restricted to:

1. Health and Safety/Insurance

2. Quality of Workmanship
3. Programme
4. Cost
5. Attendance

Examples of issues that could lead to an Improvement, Registration of Concern or Warning Notice being raised are repeated instances of:- H & S lapses on sites, Failures to produce timely H & S Plans/Manuals, unacceptable work, poor workmanship, use of non-specified materials without authorisation, inadequate control of sub-contractors, lack of adequate services commissioning, insufficient provision of resources, **inadequate programming**, failure to adhere to timescales/sectional completions, failure to provide financial information, untimely provision of final accounts.

A rating status can be notified at any time during the project but one will be recorded as a minimum at Practical Completion (if it is an Amber or Red, otherwise a Green will be assumed).

The system process steps are;

1. Improvement Notice - Issue to the Contractor an "Improvement (Amber) Notice" recording the issues and giving the opportunity to improve. Issue of an Improvement Notice will be by email or formal letter.
2. Registration of Concern - Issue to the Contractor a "Registration of (Amber) Concern" recording the issues and any previous Notifications and requiring immediate response to the issues raised and performance improvement. The Contractor may be asked to attend a formal meeting to explain the reasons for poor performance and provide mitigation. Issue of the ROC will be via email or formal letter.
3. Warning Notice - Issue to the Contractor a "Warning (Red) Notice" recording the issues, previous Notifications and requiring immediate improvement under threat of contract termination, with a review period of six months or until improvement can be proven to the satisfaction of Premises Services, whichever is the shorter period. It may also require the Contractor to attend a formal meeting to explain why no improvement has been made. Issue of Warning will be via email or formal letter.
4. Termination Notice - Issue to the Contractor a "Termination (Red) Notice" recording the issues, previous Notifications and advising of termination of the contract. Issue will be via formal letter.

Under exceptional circumstances an issue may be notified and recorded which would warrant an immediate "Red" notification being issued, similarly two notifications in the same monitoring area can result in the same action.

Notwithstanding the above the recognised options available under the Terms & Conditions of contracts will still be available to the Client.

The above system will form part of the feedback process that will provide input into the Council's Key Performance Indicator system (KPI) together with Client Satisfaction feedback and Contract Administrator/Employers Agent evaluation.

## **1.4 General**

The Contractor shall provide the Client with information to allow the Client 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. It shall also include details of the quality system operated by the Contractor.

The Contractor will obtain agreement from the Client before substituting alternative personnel before or during the contract.

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. The Contractor should make copies of the policies available for approval.

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

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

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

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

The Contractor is expected to exercise politeness, confidentiality and discretion during the course of the maintenance work. Results of the service may only be divulged to the Client's representative and other persons nominated by the Client.

## **1.5 Important Notes**

Contractors shall be responsible for visiting the site(s) to take all their own measurements, site surveys, necessary particulars and shall make arrangements with the establishment for gaining access to the relevant areas.

The Contractor shall have the means to comply with the terms of the contract, bearing in mind that the equipment within the premises will be of a differing manufacture.

The Contractors operative(s) shall carry a range of tools, suitable access equipment, equipment access keys, calibrated test instruments and any other necessary equipment to perform this function satisfactorily.

The Contractor shall provide supervisory staff to regularly monitor the performance and quality of the work of its operative(s).

The contractor shall include in the tendered costs those that will be incurred for any administrative duties such as photocopying, providing duplicate electronic reports and communication costs.

The Contractor shall familiarise themselves with the site and in particular to the problems of gaining access to the site. Damage caused to any property in gaining access to the site by the Contractor or persons servicing the Contractor shall be made good at the Contractor's own expense to the satisfaction of the Client.

The Contractor shall make good any damage caused to the Property by the Contractor or persons servicing the Contractor during the contract at the Contractor's own expense to the satisfaction of the Client.

The Contractor and his employees must report to the premises office or reception whenever they are visiting site to 'book-in', and ensure they 'book-out' when leaving site on all occasions.

Asbestos Management Regulation - Contractors shall be aware that there is a mandatory requirement to read and sign the onsite Asbestos Register prior to the commencement of any work. All operatives working on the servicing and repair of equipment must be in possession of valid asbestos awareness training, copies of these training records are to be submitted to the Client. The Contractor is to exercise extreme caution and remain vigilant when working on Heaters, as the internals of the units are likely to have been excluded from an asbestos management survey due to the non-intrusive nature of the inspections that the reports are generated from.

The Contractor must 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, respectable clothing and identity passes.

The works undertaken by the contractor is being undertaken on active Council sites and as such the normal operation of the site(s) shall not be interfered with. Co-operation and liaison with the site manager about any schedule and limitations is imperative.

## **1.6 Hours of Work**

Normal Daytime Hours are defined as: - 8am to 5pm Monday to Friday excluding Statutory and Bank Holidays. Please note there will be no additional costs applicable to the client outside of normal working hours for servicing, as some sites may require working outside the normal daytime hours as defined.

## **1.7 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. The passes are also to contain the engineers DBS number.

## **1.8 General Health and Safety**

The site 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 Contractor shall provide suitable first aid facilities on site.

The Contractor shall ensure that all personnel are provided with, and instructed to wear, proprietary personal protective equipment (PPE) 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' on completion of the contract.

The contractor shall at all time adopt the working practices as defined in the RAMS.

## **1.9 Legislation**

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

- The Health and Safety at Work Act 1974 (HASAWA)
- Workplace (Health, Safety and Welfare) Regulations 1992 (WHSWR)
- Management of Health & Safety at Work Regulations 1999 (MHSWR)
- Construction and Design Management Regulations 2015 (CDM)
- Lifting Operations & Lifting Equipment Regulations 1998 (LOLER)
- Personal Protective Equipment at Work Regulations 1992
- Personal Protective Equipment Regulations 2002
- Health and Safety (First Aid) Regulations 1981
- Control of Substances Hazardous to Health Regulations 2002 (COSHH)
- Electricity at Work Regulations 1989
- Regulatory Reform (Fire Safety) Order 2005 (RRFSO)
- Reporting of Injuries, Diseases & Dangerous Occurrences Regulations 2013
- Manual Handling Operations Regulations 1992
- Provision & Use of Work Equipment Regulations 1998 (PUWER)
- Control of Noise at Work Regulations 2005
- Environmental Protection Act 1990
- The Control of pollution Act 1989
- Confined Space Regulations 1997
- Working at Height Regulations 2005 (WAHR)
- The Control of Asbestos Regulations 2012
- F-Gas Regulations 2015
- Regulatory Reform (Fire Safety) Order 2005 (RRO)

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

## **1.10 Risk Assessments and Method Statements**

The Contractor shall carry out a detailed and recorded "Risk Assessment" and 'Method Statement' for the works and **submit two copies with the completed tender documents.**

General Principle of Risk Assessment: The risk assessment shall 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) 1999 associated with Health and Safety at Work

The Contractor shall ensure that he undertakes a risk assessment and provides a method statement for his means of access to allow for inspection and testing.

All works shall be carried out in strict accordance with the requirements of "The Work at Height Regulations 2005.

The Contractor shall ensure that all personnel employed upon this contract are suitably trained and experienced and competent to work at height.

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

- Demolition
- Steel erection
- Entry into confined spaces
- Handling and removal of asbestos
- Use of explosives (including cartridge tools)
- Roof works and other overhead work
- Contaminated sites or buildings
- 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 Construction Phase Health and Safety Plan (CPP)**

The Contractor shall provide a sufficiently detailed CPP that will demonstrate how the servicing element of the Contract will be managed safely across all Property's encompassed by the Contract. Individual CPPs will not normally be required where the service contract is for more than one location

However, for all works that fall under the scope of Construction (i.e. outside of servicing), as defined under the CDM regulations, the Contractor shall ensure that a specific CPP is available on site and reflects the safety arrangements relevant to that site. For example, protection of the public, exposure to asbestos, electricity and confined spaces, etc. See HSE site for further information.

In addition, suitably developed RAMS will routinely be required for the servicing element and any additional works identified by servicing. These will be available on site.

### **1.12 Control of Substances Hazardous To Health**

All chemicals to be used in the servicing and cleaning process to be advised to the Contract Administrator complete with all your relevant COSHH Assessments and copy of the manufacturers Hazard Data Sheets for prior approval.

### **1.13 Disclosure and Baring Service (DBS)**

All operatives working under this contract on site, must be in possession of a current enhanced DBS certificate. Written confirmation of compliance with this requirement must form part of the tender submission. Continual compliance with this requirement for the duration of the Contract is a strict mandatory requirement. Failure to comply will lead to termination of the Contract.

### **1.14 Data Protection**

The Contractor shall in relation to the performance of his obligations under this Contract be contractually bound to the Client 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 British Standard for the secure destruction of confidential material (BS EN 15713:2009) 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 EN 15713:2009 when transporting, storing and destroying documents.

The Data Protection Act 1998 introduced a requirement in October 2000 that all organisations that are contracted to provide services to the Client and that services includes processing of personal data are obliged to ensure secure storage of data.

The Contractor shall at all time during the terms of the Contract implement appropriate technical and organisational measures acceptable by the Council to protect any personal data being accessed or processed by unlawful processing of personal data and against accidental loss or destruction of or damage to personal data held or processed by the Contractor and that the Contractor shall have taken all reasonable steps to ensure reliability of any of their staff which will have access to personal data processed as part of the contract.

The Contractor shall act only on the Council's instructions in relation to the processing of any personal data provided to the Contractor by the Council or on behalf or by the Council's employees or former employees.

Upon receipt of at least 7 days' notice the Contractor shall allow access to any relevant premises owned or controlled by the Contractor to inspect procedures described above and will, on the Council's request, prepare a report to the Council as to the Contractor's current technical and organisational measures used to protect any such personal data.

The Contractor shall consider all reasonable suggestions which the Client may put to the Contractor to ensure that the level of protection provided for personal data is in accordance with this document and make changes suggested unless the Contractor can prove to the Client reasonable satisfaction that they are not necessary to ensure on going compliance with the Contractor undertaking in the clauses stated above.

### **1.15 Business Continuity**

The Contractor is required to have fully 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.

### **1.16 Access to Plant and Equipment**

The Contractor is to supply all suitable access equipment required to gain safe access to all parts of the installation.

The Contractor shall supply all access equipment, including ladders, platforms, MEWPs and mobile units etc., to gain access to all plant & equipment at the properties listed within the Schedule of Properties (Appendix B).

The Contractor shall ensure that their operatives are fully trained and competent to use the access equipment required and utilised to safely access areas required.

The Contractor shall allow in their costs, those that will be incurred by moving stored items to allow access to plant along with subsequent reinstatement.

No additional costs shall be charged by the Contractor for any of the above.

### **1.17 Transport**

The contract shall be deemed to include all transport cost for work persons performing work within the contract.

### **1.18 Recalls**

Return service visits within 28 days necessitated in the judgement of the Contract Administrator by earlier inspection and test shall be at the Contractor's expense.

### **1.19 Hazardous Situations**

Should a hazardous situation to the buildings occupants become apparent (i.e. failure of a system or electrical hazard), the appropriate service should be isolated and the situation drawn immediately to the Contract Administrator's attention by telephone on Shrewsbury (01743 281054).

### **1.20 Additions / Deletions of Properties**

The Client may, during the period of the Contract, wish to add or delete properties from the schedule. Any such additions or deletions shall be effected by giving the Contractor one months' notice in writing and shall be effected without penalty to the Client. The floor area given may also alter due to building or demolitions.

### **1.21 Contract Adjustments**

For the purpose of additions and deletions, the total contract sum shall be adjusted by the tendered contract rates.

### **1.22 Authorisation of Work**

All work to be carried out beyond the scope (i.e. repair work) of the Specification and Servicing Schedule shall be authorised by the Client and Budget Holder before the work is undertaken.

The Client reserves the right to seek competitive alternative quotations for any works that fall outside the scope of the servicing.

### **1.23 Consumables**

The Contract shall be deemed to be inclusive of all consumables and cleaning materials necessary to complete the requirements of the contract. Consumables are defined as all items of equipment, materials or components that have to be replaced on a regular basis.

### **1.24 Inspection of Work**

The Contractor shall be required from time to time to partially dismantle and re-assemble any items of equipment upon request, as far as is reasonably practicable, to demonstrate the nature of the servicing work carried out and that the work has been completed in accordance with the manufacturers and Client service requirements. This is to include making available any faulty items or items replaced for inspection indicating the nature of the fault. No costs shall be incurred to the Client for this element of the contract.

### **1.25 Liability for Accidents and Damage**

The Contractor shall exercise reasonable care in carrying out its obligations and agrees to indemnify the Client in respect of all damage to property and injury to persons to the extent that such damage or injury arises directly from the Contractor's negligence. The Contractor's insurance shall provide a minimum indemnity cover of five million pounds per event and total liability shall be uncapped.

### **1.26 Service Routines**

The service routines outlined in the Servicing Schedule (Appendix A) are to be read in conjunction with British Standards and industry guidelines. These defined routines prescribe the base standard and shall not preclude any requirements of relevant legislation, regulations, guidance and manufactures instructions

### **1.27 Site Protection**

The Contractor shall be responsible for the protection of the site, the works and the public against all theft, damage or injury and shall allow for all necessary watching and lighting for the security of the works and protection of the public.

The Contractor shall also erect and maintain any necessary temporary barriers or other means to protect and prevent accidental or unauthorised approach to potentially hazardous areas, such as incomplete plant or partially dismantled work platforms, unfenced drops, treated floor areas, hot or chemical processes etc. and remove on completion.

### **1.28 Review Meetings**

It is to be assumed that the Contractor's Contract Manager will be required to attend quarterly contract review meetings with the Client at Shropshire Councils HQ, to discuss contract performance and any other matters deemed necessary. The frequency of these meeting may be reduced based upon the Clients requirements, the frequency may be increased to address areas of poor performance.

### **1.29 Taking of Photographs**

The Contractor shall advise the Head of school and college sites that their engineers will be taking photographs, for inclusion with the formal servicing report. Approval shall be granted before any photographs are to be taken.

### **1.30 Delegation**

The Contractor shall not delegate performance of the whole or any part of this contract to any person or company unless they have obtained the written permission of the Client.

Where permitted, delegation shall only be to another contractor on the Client's approved list and may only be on a short term basis and in no circumstances shall it constitute more than 10% of the total scheduled contract works.

### **1.31 Items under warranty**

If during the course of the Contractors inspection of the Property, they find new items of plant defective or incorrectly installed, they are to notify the Client so as the original installing contractor can be called upon to rectify the defect(s) under warranty.

### **1.32 Named Contacts and Service Personnel**

The Contractor shall appoint and supply the details of a dedicated personnel to carry out the administrative duties required of the Contractor. The details are to be provided to the Client along with alternative details to cover leave and sickness.

Any changes to the Service Personnel used under this Contract shall be advised to the Client immediately, with the Contractor providing the Client details of their qualifications and DBS numbers.

### **1.33 Electrical Works**

Any electrical work or work servicing and repairing electrical controls, components and wiring, shall be carried out by a Skilled Person in a manner to comply with B.S. 7671 Requirements for Electrical Installations.

All electrical works shall be in accordance with Shropshire Councils Standard Electrical Specification SP(E). Available upon request

### **1.34 Workmanship Standards**

All works executed under this contract shall be to standard expected by Skilled Person. The Client reserves the right to reject work at the Contractors expense if the Client deems it to be unacceptable.

## **2 SPECIFIC REQUIREMENTS**

### **2.1 Scope of Contract**

The Contract shall comprise of carrying out the planned annual inspection and maintenance of Building Management Systems (BMS), together with ancillary equipment installed on Shropshire Council controlled premises, to ensure that they provide best performance and are maintained in a safe condition.

The Contractor shall insure they are familiar with all items of plant highlighted in appendix B. Any additional training required to carry out the servicing and repair of the plant shall be covered at the contractors' expense.

NOTE: Shirehall and Ludlow library plant is more specialist and could present a business risk to any down time of the equipment. A survey of the plant should be completed to Confirm knowledge of these systems. Shirehall site has a Trend TMNG modem, special dispensation will be required for this system in terms of maintenance and repair .

It shall further comprise the provision of an emergency breakdown repair service, as detailed in Section 6.

These visits to be within the months shown in the Schedule of Properties – Appendix B and shall not lapse the date given. Inspections are permitted to be undertaken up to 2 weeks early.

The Contract shall comprise of the remedial works required to repair the existing equipment if found to be faulty **subject to the prior approval of the Budget Holder and Client.**

The inspection and maintenance service is intended to demonstrate compliance with:

1. **The Health and Safety at Work etc. Act 1974**
2. **The Workplace (Health, Safety and Welfare) Regulations 1992**
3. **The Electricity at Work Regulations 1989**
4. **B.S 7671:2008 Requirements for Electrical Installations (IEE Wiring Regs 17<sup>th</sup> Edition)**
5. **HVCA Standard Maintenance Specification for Mechanical Services in Buildings SFG20 2007**
6. **CIBSE Guide M Maintenance Engineering & Management 2008**
7. **CIBSE Guide F Energy Efficiency in Buildings 2004**
8. **CIBSE Guide H Building Control Systems 2009**
9. **BSRIA Guidance Note BG 4/2003 BMS Maintenance Guide**

## **2.2 Duration of the Contract**

Fixed price tenders are being invited to the period 1st April 2018 – 31st March 2019. Thereafter, the contract may be extended for a further three years (up to 31st March 2022) subject to satisfactory performance during the contract year and the agreement of the costs for the ensuing 12 months.

Prices submitted are for the period of 1st April 2018 – 31st March 2019, thereafter the contractor is entitled to submit a cost adjustment to the tendered figure on an annual basis that is in line with the Retail Price Index, and which is subject to the approval by the Client. However, in any event, the Client reserves the right to negotiate with the Contractor any proposed annual increase in rates if in its opinion they are not justified.

The Client is entitled under the duration of this contract to amend the content of the scope of works, so as to encompass any regulatory or legislative changes that impact upon the equipment covered under the scope of this contract.

The Client reserves the right to terminate the contract based upon the criteria as detailed in clause 1.3 at any time during the contract period.

## **2.3 Schedule of Properties**

A Schedule of Properties - Appendix B document shall be issued as part of the tender documentation, and again each year upon agreeing to extend the Contract, detailing the Property's that are to be covered under the scope of this Contract and detailing the number

of units present (based upon current detail available, however this information is not binding and shall be used as a guide only).

## **2.4 Costs**

The cost of providing the planned maintenance service shall be on a cost per property basis and will be fixed for the first 12 months of the contract. The cost of providing the emergency breakdown service shall be based upon an hourly rate and will be fixed for the first 12 months of the contract. 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, the Client reserves the right to negotiate with the Contractor any proposed annual increase in rates if in its opinion they are not justified.

### **2.4.1 Unrealistically Low Tendered Unit Costs**

The Client reserves the right to reject any tender submission from a Contractor that cannot be justified as commercially viable.

### **2.4.2 Spares**

Spares utilised on the contract are to be charged at the declared mark-up rates from paid wholesale prices and installed utilising the agreed labour rates.

### **2.4.3 Dayworks**

The below only applies to dayworks and shall not apply to any of the inspection processes. These are for any repair work executed under the terms of this contract. The rates are to be populated in the relevant section of the Tender Response Document.

#### **2.4.3.1 Call Out Unit Costs**

The fixed rates charged are to account for traveling to and from site, including any mileage costs, in addition to the first hour on site. These rates shall be fixed in accordance with 2.2

The number of Call Out units costs charged to each breakdown call shall be kept to a minimum by ensuring that relevant spares are carried by Service Personnel attending site.

#### **2.4.3.2 Hourly Rates**

The hourly rates shall be charged for additional time spent on site beyond the first hour carrying out repair works. These rates shall be fixed in accordance with 2.2 and shall be charged in a maximum of quarter hour increments.

#### **2.4.3.3 Travel Time**

The Contractor shall not charge the Client for travel time as this cost is to be included in 2.4.3.1

#### **2.4.3.4 Obtaining Materials**

No costs shall be charged to the Client for the time taken to obtain materials, with the exception of emergency repairs.

#### **2.4.3.5 Mileage Rate**

No costs shall be charged to the Client for mileage as these costs are to form part of 2.4.3.1

## **2.5 Access**

The Contractor shall make access arrangements at least two working weeks in advance with the Head or Manager of each Property, giving notification that access to the Property is required and to ensure that access will be available. It is the Contractor's responsibility to

supply all access equipment, including ladders and mobile units, and then gain access to all the BMS plant & equipment.

The Contractor shall make access arrangements for all breakdown calls they receive with the Property before attending site to ensure access can be granted.

Failure to comply with this requirement will result of non-payment of abortive visit charges. A record of with whom contact was made with, will be required in order to sanction abortive visit charges. All work referred to in this Specification shall be carried out during the normal working day unless local arrangements are made. Such local arrangements shall not involve the Council in overtime payments to their own or Contractor's staff.

## **2.6 Service Vehicle Equipment List**

Fitting replacement parts shall be carried out as far as possible during the maintenance visit. An extra visit in order to fit replacement parts in cases of emergency may be permitted, but only with prior notification and approval of the Client.

The Contractor's vehicles must carry adequate stocks of spare parts and consumables to ensure plant 'down time' is kept to a minimum. Spare parts shall include: outstations, input & output cards, sensors, actuators, overloads & relays, outstation and network communication devices.

The Contractor shall only use new genuine manufacturers' spares, except when otherwise directed. Reconditioned parts are not acceptable.

Chargeable spare parts replaced during maintenance or breakdown visits shall be left on site for inspection and disposal instructions from the Client.

## **2.7 Abortive Visit Charges**

In line with the requirements of clause 2.5, abortive visits shall only be charged in line with the agreed dayworks rates (as declared in the Tender Response Document) and shall normally consist of a Call Out unit cost.

## **2.8 Spare Parts and Renewals**

Rectification of highlighted defects shall only be undertaken in accordance with clause 1.22

The Contractor shall use only genuine manufacturer's spares, except where otherwise directed, with all removed equipment, lamps and batteries to be removed from site and correctly disposed of at the contractor's expense in line with relevant legislation.

Contractor's vehicles at the start of each day shall carry replacement parts as shown in the schedule of spare parts.

The Contractor shall only use new spares, except when otherwise directed. Reconditioned parts are not acceptable, with the exception of no longer obtainable parts.

Random checks of replaced parts may be carried out by the Client. The Contractor shall reimburse the Client for any parts that have been changed and subsequently are found to be in working order.

The Client reserves the right to request copies of supplier's invoices to verify cost mark-up against trade price of materials used against the values stated in the Tender Response Document.

The Contractor shall ensure that they source all materials at the most competitive rates currently available to ensure best value at all times.

All replacement luminaires fitted shall be on a like for like basis if still available. Where fittings are no longer obtainable, replacements shall match the original performance of the fitting replaced to ensure the original design remains valid.

## **2.9 Live Working**

A robust safe system of works shall be adopted at all times, as defined in produced RAMS, to minimise the dangers of any live working required during the inspection.

The guidance contain with HSG85 shall be adhered to at all times as a minimum.

## **3 SERVICE REPORTS**

The Contract Administrator may, during the period of the contract, wish to amend the method of service reporting – i.e. uploading to the cloud

The Contractor's formal service report shall be submitted on a form approved by the Client but supplied by the Contractor. The service report shall contain and make reference to the service routines referenced in the Service Schedule (Appendix A). The following information shall **also** be recorded: -

- Date of the service visit
- Property name and address
- Property number
- Contractor name, address and telephone number
- Equipment manufacturer, model, serial numbers, year of installation
- Equipment location on site
- A statement of the condition of the equipment required by the service routine
- Property representative's name and signature
- Engineer name and signature
- Details of replacement parts fitted or required

The service report shall be submitted to the Client within 14 days of the service visit, each report being countersigned by the caretaker or other responsible person on site. Photographs should be included where appropriate to highlight specific points.

Random checks of replaced parts may be carried out by the Client. The Contractor shall reimburse the Client for any parts that have been changed and subsequently are found to be in working order.

### **3.1.1 Repair Works**

For all repair works executed, the Contractor shall submit with their invoice a worksheet detailing the works undertaken, accompanied with any required report forms as recommended in the relevant British Standards: i.e. Modification Certificate from BS5839-1:2017; Minor Works Certificate from BS7671; etc.

## **3.2 Quotations**

For all works that fall out the scope of servicing – i.e. repairs required and are not undertaken at the time of service (subject to the requirements of 1.22), the Contractor shall submit with their service reports an itemised quotation.



The quotation must include a full breakdown of costs, showing individual costs for materials and labour, to enable the quotation to be evaluated fully.

Subject to budget holder approval, the Client will issue the Contractor with an official order number to proceed if deemed necessary.

The Contractor shall use the agreed day rates when preparing quotations to ensure best value to the Client and to enable procurement without seeking alternative quotations.

Notwithstanding the above, the Client reserves the right to seek alternative quotations to monitor the Contractors performance and competitiveness. The Client reserves the right to place orders with other suppliers for repair works if their quotations are deemed to offer preferential rates.

## **4 INVOICES & PAYMENT**

Payment of invoices will be made in arrears following the submission of the service report and invoice.

Payment will be made following the electronic submission of an invoice, on completion of the works and must be presented within 14 days following completion of works. All invoices must clearly state the following information:

- Addressed to PSG, Shropshire Council
- Be on a company letterhead showing company name and address
- If VAT is chargeable, invoice to have a VAT registration number
- Site name, property number and address
- Official Order Number
- Name of person requesting the works
- Date and time of when the order was placed
- Date of visit
- Time arrived on site
- Time left site
- Sub-contractors details if necessary
- List Materials used along with the cost for each item and mark up
- Worksheet signed by authorised person on site
- Repair invoices are to contain the RMCB031 reference stated on each invoice submitted.

Not adhering to stipulated criteria may lead to administration penalties.

The Client reserves the right to request copies of supplier's invoices to verify cost mark-up against trade price of materials used against the values stated in the Tender Response Document.

Payment terms shall be 30 days in accordance with Shropshire Councils standard terms and conditions.

## **5 KEY PERFORMANCE INDICATORS**

The Client shall monitor the performance of the Contractor's delivery of the Contract. The Contractor shall meet the following targets on delivery:

<b>Item to be monitored</b>	<b>Target to be met</b>
Adherence to schedule of delivery	95%
Reports received within 7 days of inspection	95%
Invoices received within 14 days of inspection	95%
Accuracy of report documentation	95%

The Client shall issue the Contractor, each calendar month, a report to highlight any overdue inspections based upon the Schedule of Properties - Appendix A document.

Failure to achieve the required targets shall result in the Client evoking the procedures laid down in section 1.3

## **6 INSPECTION PROCEDURES**

The service work shall be carried out according to the provisions of the relevant British Standards and industry guidance.

The requirements of the inspection regime are detailed in the Servicing Schedule document (Appendix A). These defined routines prescribe the base standard and shall not preclude any requirements of relevant legislation, regulations, guidance and manufactures instructions. Where relevant legislation, regulations, guidance and manufactures instructions are more onerous, they shall be adhered to.

## **7 CALL OUTS AND EMERGENCY REPAIRS**

The Contractor shall be required to provide a 24-hour 365 day per year emergency breakdown service. Answer phone services are not acceptable.

The Contractor shall be able to respond to instructions to attend an emergency breakdown by attending site within two hours from receipt of call from the Client.

Breakdowns shall be given priority over planned service visits and must be completed within 24 hours from receipt of a call, unless otherwise agreed with the Client.

For breakdowns reported during normal working hours the Contractor will be issued verbally with an order number, followed by an official order via email within a few days.

For breakdowns reported outside normal working hours the Contractor shall obtain an order number from the Client on the next working day.

The charges and rates for breakdowns and emergency breakdowns i.e. labour rates, materials and travelling rates, together with any special conditions, shall be indicated on the tender form for work not included in the Specification and Schedules. Where the Client considers the charges and special conditions excessive the whole tender may be disqualified.

The Contractor shall provide details of operatives 'on-call' for the out of normal hours breakdown service. Details which shall include names & contact numbers shall be available at the commencement of the contract. These details shall be updated to reflect any

revisions immediately following any such revisions. The Contractor shall also re-confirm the contact details prior to each annual extension of the Contract and prior to times of public holidays e.g. Easter, Christmas etc.

The Contractor shall report to the person in charge of the premises if they are unable to complete a repair and inform that person the course of action they are taking i.e. obtaining replacement parts.

In the event of spares/parts not being available from stock or local suppliers the Contractor is to make arrangements for overnight delivery direct from the manufacturer to their agents.

Random checks of replaced parts may be carried out by the Client. The Contractor shall reimburse the Client for any parts that have been changed and subsequently are found to be in working order.

DATED:                                      day of                                      20..

BETWEEN

SHROPSHIRE COUNCIL (1)

[.....] (2)<sup>1</sup>

Contract Ref: ROCB 012

Contract for Maintenance of Building Management Services



LEGAL AND DEMOCRATIC SERVICES  
The Shirehall Abbey Foregate Shrewsbury SY2 6ND  
DX 702024 Shrewsbury 2

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<sup>1</sup> Insert Contractor's name

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]<sup>2</sup>** /a company incorporated in England and Wales under company number **[co. number]<sup>3</sup>** and whose registered office is at **[company address]<sup>4</sup>** ] **or** [whose address is at [insert the home address of the Contractor]<sup>5</sup> ('the Contractor')

WHEREAS:

- (A)     The Council wishes to receive the planned annual inspection and reactive maintenance of Building Management Services.
- (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**

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<sup>2</sup> 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

<sup>3</sup> 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

<sup>4</sup> Insert registered office address as shown on Companies House

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

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

**Agreed Prices**<sup>6</sup>

means.....<sup>7</sup>

‘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’

means the representative appointed by the Council to manage the Contract on its behalf

‘Best Practice’

means in accordance with the best practice data 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

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<sup>6</sup> Optional definition where prices have been agreed

<sup>7</sup> Please complete definition to state where the Agreed Prices are set out e.g. Schedule H of the Tender or a Schedule setting out payment rates within the Agreement.

	concerning the legislation.
‘Commencement Date’	1 <sup>st</sup> May 2018
‘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;
‘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
‘Council’	means the party named above and includes its employees, officers, servants and agents acting on its behalf
‘Council Data’	<p>the data, text, drawings, diagrams, images or sounds (together with any database made up of any of these) which are embodied in any electronic, magnetic, optical or tangible media, and which are:</p> <p>(a) supplied to the Contractor by or on behalf of the Council; or</p> <p>which the Contractor is required to generate, process, store or transmit pursuant to this Agreement; or</p> <p>(b) any Personal Data for which the Council is the Data Controller;</p>
‘Data Controller’	<p>means:</p> <p>(i) prior to the GDPR coming into force and becoming applicable within the United Kingdom, shall have the meaning given to such term in the</p>



	DPA; and
	(ii) once the GDPR comes into force and becomes applicable within the United Kingdom, shall have the meaning given to the term "controller" as set out in Article 4 thereof; <sup>8</sup>
'Data Processor'	means: <ul style="list-style-type: none"> <li>(i) prior to the GDPR coming into force and becoming applicable within the United Kingdom, shall have the meaning given to such term in the DPA; and</li> <li>(ii) once the GDPR comes into force and becomes applicable within the United Kingdom, shall have the meaning given to the term "processor" as set out in Article 4 thereof<sup>9</sup></li> </ul>
'Data Protection Legislation'	the Data Protection Act 1998, the GDPR, the EU Data Protection Directive 95/46/EC, the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive 2002/58/EC, the Privacy and Electronic Communications (EC Directive) Regulations 2003 and all

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<sup>8</sup> Delete this definition if Option 2 of the data protection clauses (Data Protection) and (Protection of Personal Data) are not used

<sup>9</sup> Delete this definition if Option 2 of the data protection clauses (Data Protection) and (Protection of Personal Data) are not used

	applicable laws and regulations relating to processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner;
‘Data Subject’	shall have the same meaning as set out in the Data Protection Act 1998;
‘DPA’	Means the Data Protection Act 1998
‘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,
‘Estimated Annual Contract Value’	means the estimated annual contract value relating to this Agreement <sup>10</sup>
‘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)

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<sup>10</sup> Delete this definition if there is no estimated annual contract value

“Expiry Date”

the later of the Initial Expiry Date or the last day of any agreed extension period further to clause 2 below or such other date as this Agreement is terminated in accordance with its terms

‘Fees’

[specify the amount; **or**, refer to the Agreed Prices as set out in Schedule (?)/Specification annexed to this Agreement]<sup>11</sup> and includes all expenses, materials, labour, plant, equipment, handling of materials and plant, tools and appliances, 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.

GDPR

Means the General Data Protection Regulation in force in the UK with effect from 25<sup>th</sup> May 2018

‘Initial Term’

means a period of one year

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<sup>11</sup> Insert the amount of any fixed fee to be paid to the Contractor under this contract **or alternatively**, where amounts are variable, refer to Agreed Prices (if applicable)

	commencing on the Commencement Date and expiring on the Initial Expiry Date
'Initial Expiry Date'	means 30 <sup>th</sup> April 2019
'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
'Option to Extend'	means the Council's option to extend the Initial Term by a period of up to three years commencing from and including the date following the Initial Expiry Date
'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 Act 1998;
'Personal Data Breach'	means: <ul style="list-style-type: none"> <li>(i) prior to the GDPR coming into force and becoming applicable within the United Kingdom, any unauthorised or unlawful processing, use of, access to, theft of, loss of, damage to or destruction of Personal Data processed in accordance with this Contract; and</li> <li>(ii) once the GDPR comes into force and becomes applicable within the United Kingdom, anything which constitutes a "personal data breach" as set out in in Article 4 thereof;</li> </ul>

‘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
‘Request for Information’	means a written request for information pursuant to the FOIA as defined by Section 8 of the FOIA
‘Services ’	means the maintenance of building management 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 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.
'Tender' <sup>12</sup>	means the tender dated [.....] <sup>13</sup> submitted by the Contractor and accepted by the Council annexed to this Agreement in Appendix 1
'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
'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

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<sup>12</sup> Delete this definition if there is either no tender or the tender is not being annexed to this Agreement

<sup>13</sup> Where the tender is being annexed to this Agreement, please insert date of tender

- 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'
- 1.2.10 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.

1.2.12 A reference to writing or written includes faxes but not 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 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 three years commencing on 1<sup>st</sup> May 2019

**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 in writing by the Parties to the terms of this Agreement or the Fees to be paid which are to apply during the 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 34 (Consequences of Termination) shall apply

## **3. Estimated Annual Contract Value: [Not Used]<sup>14</sup>**

**3.1** The Estimated Annual Contract value of the Standing Order Arrangement is [.....]<sup>15</sup> [(insert figure represented in words)]<sup>16</sup>

**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

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<sup>14</sup> 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

<sup>15</sup> Insert sum represented in figures if retaining this sub-clause

<sup>16</sup> 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 the **Specification (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]<sup>17</sup>**
- 4.4** The Services shall only be performed/delivered by the Contractor unless otherwise agreed in writing between the Parties
- 4.5** The Contractor shall provide the Services (a) in accordance with the Specification (b) with all due skill, care and diligence and in accordance with good industry practice and (c) in accordance with the method statement(s) submitted by the Contractor with the Tender Response Document
- 4.6** 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
- 4.7** 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
- 4.8** The Contractor shall carry out its own risk assessments relevant to the Services.
- 4.9** The Contractor shall have a written procedure for dealing with complaints about the Services in accordance with clause 30 (Complaints) hereof
- 4.10** 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
- 4.11** The Contractor shall ensure that it meets the performance targets set out in the Specification.

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<sup>17</sup> Delete text in square brackets as applicable

- 4.12** The Council shall monitor the Contractor's delivery of the Services and will issue the Contractor with a report to highlight any failures to meet the performance targets set out in the Specification.

**5. Use of the [describe premises] and 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).

**6.2 NOT USED**

- 6.3** Where the Contractor is providing Services of a professional nature, or the Council otherwise specifies that professional indemnity insurance is required, the Contractor shall hold and maintain professional indemnity insurance cover and shall ensure that all professional consultants or Sub-Contractors involved in the provision of the Services hold and maintain policy cover which indemnifies the contractor for negligent acts arising out of the performance of this Agreement. To comply with its obligations under this clause, and as a minimum, the Contractor shall ensure professional indemnity insurance held by the Contractor and by any agent, Sub-Contractor or consultant involved in the performance of Services has a limit of indemnity of not less than £2,000,000 (TWO MILLION POUNDS) in respect of each and every claim.

**6.3.1** 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

- 6.4** 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.

**6.5** 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

**6.6** 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.

**6.7** Where the minimum limit of indemnity required in relation to any of the insurances is specified as being "in the aggregate":

**6.7.1** 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

**6.7.2** 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 DPA and GDPR (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 NOT USED**

## **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 invoice. In the event of late payment, interest thereon shall be charged at the prevailing statutory rate further to the Late Payment of Commercial Debts (Interest) Act 1998. Such interest shall accrue on a daily basis from the due date until actual payment of the overdue amount, whether before or after Judgment.
- 9.2** The Contractor shall not be entitled to vary the Fee(s) during the existence of this Agreement unless with the prior written consent of the Council.
- 9.3** 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
- 9.4** 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
- 9.5** 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.

**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**

**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.

**13. Confidentiality**

- 13.1** Subject to clause 13.2, the Parties shall keep confidential all matters relating to this Agreement and each Party shall use all reasonable endeavours to prevent their respective staff and Contractor Personnel from making any disclosure to any person of any matters relating hereto.
- 13.2** Clause 13.1 shall not apply to any disclosure of information:
- 13.2.1** required by any applicable law, provided that clause 23.1 shall apply to any disclosures required under the FOIA or the Environment Information Regulations;
  - 13.2.2** that is reasonably required by persons engaged by a Party in the performance of such Party's obligations under this agreement;
  - 13.2.3** where a Party can demonstrate that such information is already generally available and in the public domain otherwise than as a result of a breach of clause 13.1;
  - 13.2.4** by the Council of any document to which it is a Party and which the Parties to this agreement have agreed contains no commercially sensitive information;
  - 13.2.5** to enable a determination to be made under clause 31 (Disputes);
  - 13.2.6** which is already lawfully in the possession of the receiving party, prior to its disclosure by the disclosing party;

- 13.2.7** by the Council to any other department, office or agency of the Government; and
- 13.2.8** by the Council relating to this Agreement and in respect of which the Contractor has given its prior written consent to disclosure.
- 13.3** On or before the Expiry Date the Contractor shall ensure that all documents and/or computer records in its possession, custody or control which relate to personal information of the Council's employees, rate-payers or service users, are delivered up to the Council or securely destroyed.
- 13.4** 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     Data Protection**

- 15.1** The Contractor shall (and shall procure that any of its Contractor's Personnel involved in the provision of the agreement shall) comply with any notification requirements under the Data Protection Act 1998 (DPA) and the Data Protection Legislation and both Parties shall duly observe all their obligations under the DPA and Data Protection Legislation, which arise in connection with this Agreement.
- 15.2** Notwithstanding the general obligation in clause 15.1, where the Contractor is processing Personal Data as a Data Processor for the Council, the Contractor shall ensure that it has in place appropriate technical and contractual measures to ensure the security of the Personal Data (and to guard against unauthorised or unlawful processing of the Personal Data and against accidental loss or destruction of, or damage to, the Personal Data), as required under the Seventh Data Protection Principle in Schedule 1 to the DPA and to enable the Council to comply with its obligations under Article 32 of the GDPR and will at all times indemnify fully the Council from and/or against any cause or action which may be brought against the Council consequent to any breach or non-observance by the Contractor, its agents and servants; and
- 15.2.1** provide the Council with such information as the Council may reasonably require to satisfy itself that the Contractor is complying with its obligations under the DPA and the Data Protection Legislation;
- 15.2.2** notify the Council of any actual or potential Personal Data Breach within twenty-four (24) hours of its becoming aware of its occurrence (or, in the case of a potential breach, the Contractor becoming aware of such breach), along with all supporting facts and information sufficient to allow the Council to make any required report(s) to any relevant Data Subjects, the Information Commissioner or other regulatory or governmental body or bodies to which it is subject; and

- 15.2.3** ensure it does not knowingly or negligently do or omit to do anything which places the Council in breach of the Council's obligations under the DPA and the Data Protection Legislation.
- 15.3** The Contractor shall not store, copy, disclose, or use the Council Data except as necessary for the performance by the Contractor of its obligations under this Agreement or as otherwise expressly authorised in writing by the Council and in particular the Contractor shall not store any Council Data, which the Council has notified the Contractor requires storage in an encrypted format, on any portable device or media unless that device is encrypted.
- 15.4** To the extent that Council Data is held and/or processed by the Contractor, the Contractor shall supply that Council Data to the Council as requested by the Council in any format specified in this Agreement or if none specified in any format reasonably requested by the Council.
- 14.5** The provisions of this clause shall apply during the continuance of this Agreement and indefinitely after its expiry or termination.

**16. Protection of Personal Data**

- 16.1** With respect to the parties' rights and obligations under this Agreement, the parties agree that the Council is the Data Controller and that the Contractor is the Data Processor.
- 16.2** The Contractor shall:
- 16.2.1** Process the Personal Data only in accordance with instructions from the Council (which may be specific instructions or instructions of a general nature as set out in this Agreement or as otherwise notified by the Council to the Contractor during the term of this Agreement);
- 16.2.2** Process the Personal Data only to the extent, and in such manner, as is necessary for the provision of the Services or as is required by law or any Regulatory Body;
- 16.2.3** implement appropriate technical and organisational measures, including but not limited to ensuring that Personal Data is not stored on any portable equipment or storage device or media unless

encrypted, to protect the Personal Data against unauthorised or unlawful processing and against accidental loss, destruction, damage, alteration or disclosure. These measures shall be appropriate to the harm which might result from any unauthorised or unlawful Processing, accidental loss, destruction or damage to the Personal Data and having regard to the nature of the Personal Data which is to be protected;

- 16.2.4** take reasonable steps to ensure the reliability of any Contractor Personnel who have access to the Personal Data;
- 16.2.5** obtain prior written consent from the Council in order to transfer the Personal Data to any Sub-contractors or Affiliates for the provision of the Services;
- 16.2.6** ensure that all Contractor Personnel required to access the Personal Data are informed of the confidential nature of the Personal Data and comply with the obligations set out in this Protection of Personal Data clause ;
- 16.2.7** ensure that no Contractor Personnel publish, disclose or divulge any of the Personal Data to any third party unless directed in writing to do so by the Council;
- 16.2.8** notify the Council (within five Working Days) if it receives:
  - a) a request from a Data Subject to have access to that person's Personal Data; or
  - b) a complaint or request relating to the Council's obligations under the Data Protection Legislation;
- 16.2.9** provide the Council with full cooperation and assistance in relation to any complaint or request made, including by:
  - a) providing the Council with full details of the complaint or request;
  - b) complying with a data access request within the relevant timescales set out in the Data Protection Legislation and in accordance with the Council's instructions;
  - c) providing the Council with any Personal Data it holds in relation to a Data Subject (within the timescales required by the

Council); and

d) providing the Council with any information requested by the Council;

**16.2.10** permit the Council or the Council Representative (subject to reasonable and appropriate confidentiality undertakings), to inspect and audit, in accordance with the Audit clause, the Contractor's data Processing activities (and/or those of its agents, subsidiaries and Sub-contractors) and comply with all reasonable requests or directions by the Council to enable the Council to verify and/or procure that the Contractor is in full compliance with its obligations under this Agreement;

**16.2.11** provide a written description of the technical and organisational methods employed by the Contractor for processing Personal Data (within the timescales required by the Council); and

**16.2.12** not process Personal Data outside the United Kingdom without the prior written consent of the Council and, where the Council consents to a transfer, to comply with:

a) the obligations of a Data Controller under the Eighth Data Protection Principle set out in Schedule 1 of the Data Protection Act 1998 by providing an adequate level of protection to any Personal Data that is transferred; and

b) any reasonable instructions notified to it by the Council

**16.2.13** The Contractor shall comply at all times with the Data Protection Legislation and shall not perform its obligations under this Agreement in such a way as to cause the Council to breach any of its applicable obligations under the Data Protection Legislation.

**16.2.14** The Contractor shall ensure that its employees and agents are aware of and comply with this clause and shall indemnify the Council against any loss or damage sustained or incurred as a result of any breach of this clause.

## **17. IMPLEMENTATION OF THE GENERAL DATA PROTECTION REGULATION**

**17.1** With effect from 25th May 2018 clause 18 and the definitions set out therein shall become an operative clause within this Agreement.

**17.2** After the 25th May 2018, where there is any conflict, ambiguity or inconsistency between clause 18 below (including any associated definitions) and the remainder of this Agreement, clause 18 shall take precedence.

## **18. Data Protection**

**18.1** In interpreting this clause the words and expressions set out below shall have the following meanings and any other words and expressions used are as defined elsewhere in this Agreement:

**Data Protection Legislation:** (i) the General Data Protection Regulation ((EU) 2016/679) for as long as it is directly applicable in the UK and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK; (ii) any successor legislation to the GDPR or the Data Protection Act 1998; (iii) all applicable Law about the processing of personal data and privacy.

**Controller, Processor, Data Subject, Personal Data, Personal Data Breach , Data Protection Officer** shall have the meaning given in the GDPR;

**Data Loss Event:** any event that results, or may result, in unauthorised access to, or unauthorised or unlawful processing of, Personal Data held by the Contractor under this Agreement, and/or actual or potential loss and/or damage to or destruction of Personal Data in breach of this Agreement, including any Personal Data Breach;

**Data Subject Access 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.

**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;

**Protective Measures:** appropriate technical and organisational measures which may include: pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of 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 such measures adopted by it;

**Sub-processor:** any third party appointed to process Personal Data on behalf of the Contractor related to this Agreement.

- 18.2** 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.
- 18.3** The parties acknowledge that for the purposes of the Data Protection Legislation, the Council is the Controller and the Contractor is the Processor. The only processing that the Contractor is authorised to do is as set out in this agreement which includes Schedule 3 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.
- 18.4** The Contractor shall notify the Council immediately if it considers that any of the Council's instructions infringe the Data Protection Legislation.

**18.5** 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 in accordance with Schedule 4 or otherwise on the written instructions of the Council unless the Contractor is required to do otherwise by Law. If it is so required the Contractor shall promptly notify the Council before processing the Personal Data prohibited by Law;
- (b) ensure that it has in place Protective Measures, reviewed and approved by the Council as appropriate, to protect against a Data Loss Event having taken account of the:
  - the nature of the data to be protected;
  - the harm that might result from a Data Loss Event;
  - the state of technological development; and
  - the cost of implementing any Protective Measures;
- (c) take reasonable steps to ensure the reliability and integrity of any Contractor Personnel who have access to the Personal Data;
- (d) ensure that all personnel who have access to and/or process Personal Data:
  - do not process Personal Data except in accordance with this Agreement;
  - (i) are informed of the confidential nature of the Personal Data and do not publish, disclose or divulge any of the Personal Data to any third Party unless directed in writing to do so by the Council or as otherwise permitted by this Agreement;
  - (ii) are obliged to keep the Personal Data confidential; and
  - (iii) have undergone adequate training in the use, care, protection and handling of Personal Data;

- (e) not transfer any Personal Data outside of the European Union unless the prior written consent of the Council has been obtained and the following conditions are fulfilled:
  - (i) the Council or 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;
- (f) 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 Law to retain the Personal Data; and
- (g) 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.

**18.6** The Contractor shall notify the Council immediately if it:

- (a) receives a Data Subject Access Request (or purported Data Subject Access Request);
- (b) receives any other request, complaint or communication relating to either Party's obligations under the Data Protection Legislation;
- (c) receives any communication from the Information Commissioner or any other regulatory authority in connection with Personal Data processed under this Agreement;



- (d) receives a request from any third party for disclosure of Personal Data where compliance with such request is required or purported to be required by Law; or
- (e) becomes aware of a Data Loss Event.

**18.7** Taking into account the nature of the processing, the Contractor shall provide the Council with full assistance in relation to either Party's obligations under Data Protection Legislation and any complaint, communication or request made under clause [NUMBER(2.6 here)] (and insofar as possible within the timescales reasonably required by the Council) including by promptly providing:

- (a) the Council with full details and copies of the complaint, communication or request;
- (b) such assistance as is reasonably requested by the Council to enable the Council to comply with a Data Subject Access Request within the relevant timescales set out in the Data Protection Legislation;
- (c) the Council, at its request, with any Personal Data it holds in relation to a Data Subject;
- (d) assistance as requested by the Council following any Data Loss Event;
- (e) assistance as requested by the Council with respect to any request from the Information Commissioner's Office, or any consultation by the Council with the Information Commissioner's Office.

**18.8** The Contractor shall maintain complete and accurate records and information to demonstrate its compliance with this clause. This requirement does not apply where the Contractor employs fewer than 250 staff, unless:

- (a) the Council determines that the processing is not occasional;

- (b) the Council determines the processing includes special categories of data as referred to in Article 9(1) of the GDPR or Personal Data relating to criminal convictions and offences referred to in Article 10 of the GDPR; and
  - (c) the Council determines that the processing is likely to result in a risk to the rights and freedoms of Data Subjects.
- 18.9** The Contractor shall allow for audits of its Data Processing activity by the Council or the Council's designated auditor.
- 18.10** The Contractor shall designate a data protection officer if required by the Data Protection Legislation.
- 18.11** Before allowing any Sub-processor to process any Personal Data related to this Agreement, the Contractor must:
  - (a) notify the Council in writing of the intended Sub-processor and processing;
  - (b) obtain the written consent of the Council;
  - (c) enter into a written agreement with the Sub-processor which give effect to the terms set out in this clause [X] such that they apply to the Sub-processor; and
  - (d) provide the Council with such information regarding the Sub-processor as the Council may reasonably require.
- 18.12** The Contractor shall remain fully liable for all acts or omissions of any Sub-processor.
- 18.13** Either party may, at any time on not less than 30 days' notice, revise this clause by replacing it with any applicable controller to processor standard clauses or similar terms forming party of an applicable certification scheme (which shall apply when replaced by attachment to this Agreement) or to ensure that it complies with any guidance issued by the Information Commissioner's Office.

**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** to review the integrity, confidentiality and security of the Council Data;
  - 19.1.2** to review the Contractor's compliance with the Data Protection Act 1998, 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.
- 97.3** 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

**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. Publicity<sup>18</sup>**

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

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<sup>18</sup> Delete and replace words highlighted in green with words "not used" if you have retained sub-clause 13.3

an officer of the Contractor) the Contractor's compliance with this clause 21 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 33 (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** not used
- 24.10.3** not used
- 24.10.4** The Contractor shall report all accidents and/or injuries relating to the provision of the Services to the Council immediately.
- 22.10.5** 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.
- [24.12<sup>19</sup>** If the Contractor performs the Services (or any part thereof) negligently or in breach of this Agreement, then if requested by the Council, the Contractor will re-perform the Services or relevant part thereof at no additional cost to the Council. The Council's request must be made within 6<sup>20</sup> months of the Expiry Date or termination of this Agreement]
- 24.13** the Contractor warrants that the signing of this Agreement on its behalf has been 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

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<sup>19</sup> Optional clause. Delete if not required and replace text highlighted in green with words "not used".

<sup>20</sup> Insert appropriate timescale



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 22.14.2;

**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<sup>21</sup>**

- 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

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<sup>21</sup> This is the full FOI clause and should be used in most cases

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.

**25.9<sup>22</sup>** Where the Contractor is a Public Body the parties acknowledges that such obligations and duties of the Council as set out above are reciprocal to the Contractor. The Council and the Contractor acknowledge and agree that:

**25.9.1** as Public Bodies they are subject to legal duties under the FOIA and EIR which may require either party to disclose on request information relating to this Agreement or otherwise relating to the other party;

**25.9.2** they are required by law to consider each and every Request for Information made under FOIA;

**25.9.3** that all decisions made by the other pursuant to a request under the FOIA are solely a matter for the Receiving Party and at the discretion of the Receiving Party.

**25.9.4** Notwithstanding anything in this Agreement to the contrary (including but without limitation any obligations or confidentiality), the Receiving Party shall be entitled to disclose information in whatever form pursuant to a request made under FOIA, save that in relation to any information that is Exempt Information the Receiving Party shall consult the other party before making any such decision and shall not:

(a) confirm or deny that information is held by the other party, or

(b) disclose information required

to the extent that in the Receiving Party's opinion the information is eligible in the circumstances for an exemption and therefore the Receiving Party may lawfully refrain from doing either of the things described in part (a) and (b) of this clause.

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<sup>22</sup> This sub-clause may be deleted if the Contractor is not a public body

**25.9.5** each party shall bear its own costs of:

- a) assessing the application of any exemption under FOIA and/or
- b) responding to any FOIA notice and/or
- c) lodging any appeal against a decision of the Information Commissioner in relation to disclosure

**25.9.6** the Receiving Party shall in no circumstances be liable for any loss, damage, harm, or detriment, howsoever caused, arising from or in connection with the reasonable disclosure under FOIA of any Exempt Information or other information whether relating to this Agreement or otherwise relating to the other party.

**25.9.7** the other party shall assist the Receiving Party with the request as reasonably necessary to enable the Receiving Party to comply with its obligations under FOIA.

## **26. Equalities**

**26.1** 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.

**26.2** 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).

**26.3** 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

**26.4** 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.

**26.5** 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.

**26.6** 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.

**27. Non-compliance**

**27.1.** 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).

**27.2** 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

- (i) the areas of non-compliance;
- (ii) the action to be taken; and
- (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).

**27.3** If, in the reasonable opinion of the Council, the Contractor fails to undertake all of the remedial actions in the 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 33 (Disputes):

(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 37 Termination

## **28. 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.

## **29. Sustainability<sup>23</sup>**

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

## **30. 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.

## **31. Safeguarding NOT USED**

## **32. Complaints Procedure**

**32.1** The Contractor shall operate a complaints procedure in respect of any services or works provided under this Agreement to deal with any

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<sup>23</sup> Optional clause. Delete text highlighted in green and replace with words "not used" if not using.

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.

**32.2** 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:

**32.2.1** is easy for complainants to access and understand

**32.2.2** clearly sets out time limits for responding to complaints and keeping the complainant and the Council informed of progress;

**32.2.3** provides confidential record keeping to protect employees under this Agreement and the complainant

**32.2.4** provides information to the Contractor's management so that services can be improved

**32.2.5** provides effective and suitable remedies

**32.2.6** is regularly monitored and audited and which takes account of complainant and Council feedback

**32.3** 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.

**32.4** 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.

**32.5** The Contractor shall ensure that:

**32.5.1** it promptly, and within a maximum of 10 days of receiving the complaint, notifies the complainant that the Contractor is dealing



with the complaint

**32.5.2** under no circumstances is a complaint investigated by a member of its staff employed under this contract who may be part of the complaint.

**32.5.3** someone who is independent of the matter complained of carries out the investigation

**32.5.4** 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

**32.5.5** it deals with the complaint fully, expeditiously and fairly and shall use its reasonable endeavours to resolve the complaint within [.....]<sup>24</sup> Working Days of receiving the complaint

**32.5.6** 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.

**32.6** 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

**32.7** 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.

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

**32.9** 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

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<sup>24</sup> Insert number of days

Government Ombudsman has the power to investigate such a complaint and the Council requires the Contractor to fully to 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.

**33. Disputes**

**33.1** 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:-

**33.1.1** 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

**33.1.2** If the dispute cannot be resolved in accordance with the preceding sub-clause then either one of the Parties may serve the Council's Director of Operations 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

**33.1.3** 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

**34. Force Majeure**

**34.1** 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 or attributable to acts, events, omissions or accidents beyond its reasonable control ("Force Majeure Event"), provided that:-

**34.1.1** 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

**34.1.2** 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.

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

**34.2.1** 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

**34.2.2** 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.

**34.3** 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):-

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

**34.3.2** 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.

**35. 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).

**36. Notices**

**36.1** Unless otherwise communicated to the Party in writing any notice to be given by either party to the other may be served by email, fax, 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

**36.2** A Notice sent by email shall be deemed to be received providing receipt is acknowledged and confirmed, Notice sent by fax shall be deemed to be served on receipt of an error free transmission report, 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

**37. Termination**

**37.1** Either Party may terminate this Agreement by giving to the other Party at least 3 months' notice in writing.

**37.2** Either Party may terminate this Agreement by notice in writing to the other if:

**37.2.1** 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.

- 37.2.2** the other Party commits a series of minor breaches which, when taken together, amount to a material breach;
  - 37.2.3** the other Party commits a material breach of this Agreement which cannot be remedied under any circumstances;
  - 37.2.4** The Council may terminate this Agreement forthwith by notice where the Contractor commits a material breach as a result of a failure to comply with a non-compliance notice issued in accordance with clause 27 (Non-Compliance).
  - 37.2.5** 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;
  - 37.2.6** the other Party ceases to carry on its business or substantially the whole of its business; or
  - 37.2.7** 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.
- 37.3** Where notice to terminate is given pursuant to this clause 37, this Agreement shall terminate with effect on the date specified in the notice
- 38. Consequences of Termination**
- 38.1** Other than as set out in this Agreement, neither Party shall have any further obligations to the other under this Agreement after its termination
  - 38.2** 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
  - 38.3** Termination of this Agreement, for any reason, shall not affect the accrued rights, remedies obligations or liabilities of the Parties existing at termination
  - 38.4** Notwithstanding its obligations in this clause 38, 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.

- 38.5** 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 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.

**39. 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

**40. Staffing Security NOT USED**

**41. Security Requirements NOT USED**

**42. 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

**43. 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.

**44. Parent Company Guarantee<sup>25</sup>**

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

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<sup>25</sup> Delete this clause if no parent company guarantee is required.  
Replace text highlighted in green with words "not used"

this contract and provide a letter to that effect signed by a duly authorised signatory of the Ultimate Group/Holding Company.

**45. Amendments**

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

**46. 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.

**47. 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.

**48. 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**

..... Head of Legal, Strategy & Democratic  
Services

..... Legal Services Manager <sup>26</sup>

Signed by and on behalf of

(Contractor)<sup>27</sup>

.....	.....
Signature of authorised signatory	Position in Company

Or

.....	.....
Director	Director/Company Secretary

Print Name (s).....

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<sup>26</sup> 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

<sup>27</sup> Insert the contractors name



SCHEDULE 1

**SPECIFICATION**

## 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:** the Data Protection Act 1998, the Data Protection Directive (95/46/EC), the Regulation of Investigatory Powers Act 2000, the Telecommunications (Lawful Business Practice) (Interception of Communications) Regulations 2000 (SI 2000/2699), the Electronic Communications Data Protection Directive (2002/58/EC), the Privacy and Electronic Communications (EC Directive) Regulations 2003 (SI 2426/2003) and all applicable laws and regulations relating to the processing of personal data and privacy, including where applicable the guidance and codes of practice issued by the Information Commissioner.

**"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 [or any Former Provider] 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 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.

## **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**

## **1. PENSIONS EXIT PROVISIONS**

1.1 The Contractor shall and shall procure that each relevant Sub-Contractor shall:

- (a) maintain such documents and information as will be reasonably required to manage the pension rights of and aspects of any onward transfer of any person engaged or employed by the Contractor or any Sub-Contractor in the provision of the Services on the expiry or termination of this Agreement (including without limitation identification of the Eligible Employees);
- (b) promptly provide to the Council such documents and information mentioned in paragraph 1.1(a) which the Council may reasonably request in advance of the expiry or termination of this Agreement; and
- (c) fully cooperate (and procure that the trustees of the Contractor's scheme shall fully cooperate) with the reasonable requests of the Council relating to any administrative tasks necessary to deal with the pension rights of and aspects of any onward transfer of any person engaged or employed by the Contractor or any Sub-Contractor in the provision of the Services on expiry or termination of the Agreement;
- (d) not adversely affect pension rights accrued by the Eligible Employees in the period ending on expiry or termination of the Agreement.



**Annex A.**

**Admission Agreement (NOT USED)**

## **Annex B. Transferring Council Employees**

There are no Transferring Employees

**Annex C. Transferring Former Provider Employees**  
**There are not Transferring Former Provider Employees**

**Annex D. List of Notified Sub-contractors**

### Schedule 3

#### Processing Personal Data and Data Subjects

1. The Contractor shall comply with any further written instructions with respect to processing by the Council
2. Any such further instructions shall be incorporated into this Schedule.

Description	Details
Subject matter of the processing	<i>The contractor is to hold personal information (names, addresses and telephone numbers) of customers as part of the Building management System contract.</i>
Duration of the processing	1st April 2018 – 31 <sup>st</sup> March 2022
Nature and purposes of the processing	<i>Customers names, addresses and telephone numbers will be stored on the Contractor's computers so that its engineers can contact customers to arrange visits. The personal data will not be disclosed or passed on to any third parties only the Contractor's own employees and sub-contractors.</i>
Type of Personal Data	<i>Name, Address, telephone numbers of customers.</i>
Categories of Data Subject	<i>Staff (including volunteers, agents, and temporary workers), customers/ clients, suppliers, patients, members of the public.</i>
Plan for return and destruction of the data once the processing is complete UNLESS requirement under union or member state law to preserve that type of data	<i>The data will be retained for the duration of the contract or until the client instructs the removal of the customer. The information is to be destroyed under the correct guidelines as stipulated in the data protection legislation.</i>

## Appendix 1

Tender<sup>28</sup>

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<sup>28</sup> Delete if tender is not being attached



# **INSTRUCTIONS FOR TENDERING**

## **ROCB 012 - MAINTENANCE OF BUILDING MANAGEMENT SYSTEMS**

## Shropshire Council Instructions for tendering

### **Contract Description:**

The contract shall comprise of carrying out of carrying out the planned annual inspection and reactive maintenance of Building Management Systems (BMS), together with ancillary equipment installed on Shropshire Council controlled premises, to ensure that they provide best performance and are maintained in a safe condition.

This contract is for an initial 12 months with an option to extend for a further 3 years commencing on 1st May 2018.



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## **1.0 Invitation to Tender**

- 1.1** You are invited to tender for the provision of the maintenance and repair of Building Management Systems as detailed in the Tender Response Document. The contract will be for an initial period of 12 months commencing on the 1<sup>st</sup> May 2018 with the option to extend for a further period of up to 3 years.
- 1.2** Tenders are to be submitted in accordance with the General Terms and Conditions of Shropshire Council 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 General Terms and Conditions 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, Tuesday 3<sup>rd</sup> April 2018**.

**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 Tuesday 27<sup>th</sup> March 2018.
- 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 15 of the Council's General Terms and Conditions 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 in the Official Journal of the European Union (OJEU) 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 General and Special Terms and Conditions of 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 1<sup>st</sup> May 2018.

**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.

Signed (1) ..... Status.....

Signed (2) ..... Status.....

(For and on behalf of .....)

Date .....



# Tender Response Document

## ROCB 012 - MAINTENANCE OF BUILDING MANAGEMENT SYSTEMS

Name of TENDERING  
ORGANISATION  
(please insert)

**ABEC**

Please also add your company name to the footer of each page of the returned document

## Shropshire Council Tender Response Document

### **Contract Description/Specification:**

The contract shall comprise of carrying out of carrying out the planned annual inspection and reactive maintenance of Building Management Systems (BMS), together with ancillary equipment installed on Shropshire Council controlled premises, to ensure that they provide best performance and are maintained in a safe condition.

This contract is for an initial 12 months with an option to extend for a further 3 years commencing on 1<sup>st</sup> May 2018.

### **Instructions for the completion of this document**

1. This document must be completed in its entirety with responses being given to all questions. If you are unsure of any section/question and require further clarification, please contact us via our Delta Tenderbox. You are recommended to keep a copy of all tender documents and supporting documents for your own records.
2. Tenderers must also complete and sign the four certificates in Sections A1 to A4. These 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. All questions require specific responses from you relating to the organisation named in Section B Question 1.1 (a). All information supplied must be accurate and up to date. The Council reserves the right to refuse to consider your application if the Tender Response Document is not fully completed or is found to be inaccurate.
4. Where copies of certificates and other details are requested **a copy must** accompany the electronic copy of your Tender Response Document.

### **Contents**

<b>Section</b>	<b>Description</b>	<b>Page</b>
A1	Form of Tender	7
A2	Non-Canvassing Certificate	8
A3	Non-Collusive Tendering Certificate	9
A4	Declaration of Connection with Officers or Elected Members of the Council	10
<b>You must sign all 4 certificates in sections A1 to A4</b>		
B Part 1	Supplier Information– For information only	13
B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion	17
B Part 2 Section 3	Grounds for Discretionary Exclusion	19
Section C	Tender and Pricing Schedule	28

## **Evaluation Criteria**

Tenders will be evaluated on the answers provided in this 'Tender Response Document' in the Standard Selection Questionnaire part. The following criteria is made up of 'pass/fail' (selection) questions and 'weighted marked' (award) questions and shows how each section is to be marked.

### **Selection Criteria Pass/Fail Questions (Sections B Part 1 – Part 3)**

This information will be provided for proof of compliance and will be judged on a pass or fail basis. Applicants must comply with these issues to demonstrate their proven competency, financial stability, resources and other arrangements. Questions marked 'For information only' will not be assessed; however they must still be answered in full.

Section / Question No.	Selection Criteria
Section B Part 1	Supplier Information– For information only
Section B Part 2 Section 2	Grounds for <u>Mandatory</u> Exclusion
Section B Part 3 Section 3	Grounds for Discretionary Exclusion

In relation to discretionary exclusion grounds (section B part 3):-

Financial viability: Responses will be analysed and evaluated by the Authority's Audit sections and will include checks via an independent agency (currently Equifax).

If the financial analysis of the Applicant (please note financial information provided by consortium members will be evaluated to assess the Applicant consortium as a whole) gives cause for concern as to its ability to deliver the Contract, the Applicant will fail this section.

If the financial analysis of the Applicant does not give any cause for concern as to its ability to deliver the Contract – it shall be deemed to have passed the section.

Please note the Contracting Authority reserves the right to further check the Financial Stability and Capacity of an applicant prior to any award of contract in the manner set out above in order to ensure that they still pass that requirement.

For other Discretionary exclusion grounds: If in the opinion of the Contracting Authority the responses provided casts serious doubt on the Tenderer's ability to perform this contract, they may be excluded.



### **Award Criteria – Weighted Marked Questions**

Tenders will be evaluated on the answers provided in this Tender Response Document and judged against the criteria shown in the table below. The following award criteria is made up of 'Quality' and 'Price' and shows how each criteria is to be weighted against each other.

<b>Section / Question No.</b>	<b>Award Criteria</b>	<b>Weighting / Max Marks Available</b>
<b>Price 60% (600 marks)</b>		
Section C / 1.1	Price-Unit Costs	420 max marks
Section C/ 1.2	Price-Daywork rates	180 Max Marks
<b>Total for price</b>		<b>600 max marks</b>
<b>Quality 40% (400 marks)</b>		
Section C / 2.1	Methodology and Case Study of Previous Experience	8 / 80 max marks
Section C/ 2.2	Service Reports	6 / 60 max marks
Section C / 2.3	Breakdown Reports	6 / 60 max marks
Section C / 2.4	Risk Assessments	6 / 60 max marks
Section C/ 2.5	Method Statements	6 / 60 max marks
Section C/ 2.6	Quotation Report	2 / 20 max marks
Section C/ 2.7	Engineers Qualifications	1 / 10 max marks
Section C/ 2.8	Company Information	For Information Only
Section C/ 2.9	Number of Employees	For Information Only
Section C/ 2.10	Number Employees	2 / 20 max marks
Section C/ 2.11	Quality Assurance	1 / 10 max marks
Section C/ 2.12	Social Value proposals	2 / 20 max marks
<b>Total for quality</b>		<b>40 / 400 max marks</b>

### **Quality Questions/ Scoring Scheme**

Questions within the quality sections shown above will be scored using the following scoring scheme. Each answer from the questions identified below will be given a mark between 0 and 10 with the following meanings:

<b>Assessment</b>	<b>Mark</b>	<b>Interpretation</b>
<b>Excellent</b>	<b>10</b>	<i>Exceeds the requirement. Exceptional demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>9</b>	
<b>Good</b>	<b>8</b>	<i>Satisfies the requirement with minor additional benefits Above average demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures. Response identifies factors that demonstrate added value, with evidence to support the response.</i>
	<b>7</b>	

<b>Acceptable</b>	<b>6</b>	<i>Satisfies the requirement. Demonstration by the Tenderer of how they will meet this requirement by their allocation of skills and understanding, resources and quality measures, with evidence to support the response.</i>
	<b>5</b>	
<b>Minor Reservations</b>	<b>4</b>	<i>Satisfies the requirement with minor reservations Some minor reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with limited evidence to support the response.</i>
	<b>3</b>	
<b>Serious Reservations</b>	<b>2</b>	<i>Satisfies the requirement with major reservations. Considerable reservations regarding how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>
	<b>1</b>	
<b>Unacceptable</b>	<b>0</b>	<i>Does not meet the requirement Does not comply and/or insufficient information provided to demonstrate how the Tenderer will meet this requirement by their allocation of skills and understanding, resources and quality measures, with little or no evidence to support the response.</i>

The use of odd numbers indicates an answer's allocated mark lies between definitions.

**The tender receiving the highest initial mark for Quality Criteria overall will receive the full 400 marks available for Quality. Other tenders will receive a final mark that reflects the % difference in the initial marks between those tenders and the tender receiving the highest initial mark for Quality overall.**

### **Price Evaluation and scoring**

Price will be evaluated as follows:

#### **Unit Costs – Question 1.1:**

Please insert the unit cost of servicing a Building Management System.

This question will be evaluated by multiplying the unit cost by 41. This is the number of properties detailed in Appendix B - Property Schedule.

The most competitively priced tender will receive the maximum mark for price being **420**. **Less competitive tenders** will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender

#### **Daywork Rates – Question 1.2:**

This will be evaluated by adding together the 'hourly rate during normal working hours' plus the 'call out unit cost' together to give an overall total cost.

The most competitively priced tender will receive the maximum mark for price being **180**. **Less competitive tenders** will receive a % of the maximum mark that represents the difference in cost between that tender and the most competitively priced tender

## **Section A:**

### **1. Form of Tender**

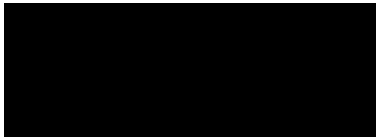
Form of Tender

#### **Shropshire Council**

Tender for Maintenance and repair of Building Management Systems

We confirm that this, our tender, represents an offer to Shropshire Council that if accepted in whole, or in part, will create a binding contract for the provision of the maintenance and repair of Building Management Systems at the prices and terms agreed and subject to the terms of the invitation to tender documentation and the contract terms and conditions including specification, copies of which we have received.

Signe



Name:



Date: 26<sup>th</sup> March 2018

Designation: Director

Company: ABEC

Address: 7 Miller Court, Severn Drive, Tewkesbury, Glos.

Post Code: GLK20 8DN

Tel N: 01684 853 780

Fax No: 01684 276 529

E-mail address:



Web address: [www.abec.co.uk](http://www.abec.co.uk)

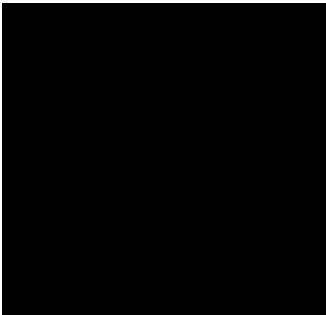
**Section A:**  
**2. Non – Canvassing Certificate**

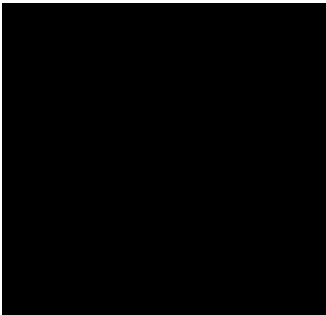
Non-Canvassing Certificate

**To: Shropshire Council (hereinafter called “the Council”)**

I/We hereby certify that I/We have not canvassed or solicited any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf has done any such act.

I/We further hereby undertake that I/We will not in the future canvass or solicit any member officer or employee of the Council in connection with the award of this Tender or any other Tender or proposed Tender for the Services and that no person employed by me/us or acting on my/our behalf will do any such act.

Signed (  Status: Director

Signed (  Status: Director

(For and on behalf of ABEC)

Date 26<sup>th</sup> March 2018

## **Section A:**

### **3. Non – Collusive Tendering Certificate**

**To: Shropshire Council (hereinafter called “the Council”)**

The essence of selective tendering is that the Council shall receive bona fide competitive Tenders from all persons tendering. In recognition of this principle:

I/We certify that this is a bona fide Tender, intended to be competitive and that I/We have not fixed or adjusted the amount of the Tender or the rates and prices quoted by or under or in accordance with any agreement or arrangement with any other person.

I/We also certify that I/We have not done and undertake that I/We will not do at any time any of the following acts:-

- (a) communicating to a person other than the Council the amount or approximate amount of my/our proposed Tender (other than in confidence in order to obtain quotations necessary for the preparation of the Tender for insurance); or
- (b) entering into any 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
- (c) offering or agreeing to pay or give or paying 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 other Tender or proposed Tender for the Services any act or omission.

Signed (1)

tatus: Director

Signed (2)

tatus: Director

(For and on behalf of ABEC)

Date 26<sup>th</sup> March 2018

**Section A:**  
**4. Declaration of Connection with Officers or Elected Members of the Council**

Are you or any of your staff who will be affected by this invitation to tender related or connected in any way with any Shropshire Council Elected Councillor or Employee?

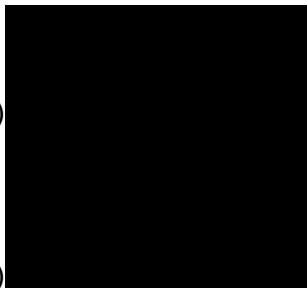
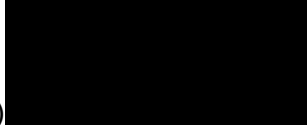
**Yes / No**

If yes, please give details:

Name	Relationship

***Please note:***

*This information is collected to enable the Council to ensure that tenders are assessed without favouritism. Whether or not you have a connection with elected members or employees will have no bearing on the success of your tender, but your tender will not be considered unless this declaration has been completed.*

Signed (1)		Status: Director
Signed (2)		Status: Director
(For and on behalf of ABEC)		
Date 26 <sup>th</sup> March 2018		

## **SECTION B**

### **Standard Selection Questionnaire**

#### **Potential Supplier Information and Exclusion Grounds: Part 1 and Part 2.**

The standard Selection Questionnaire is a self-declaration, made by you (the potential supplier), that you do not meet any of the grounds for exclusion. If there are grounds for exclusion (there is an opportunity to explain the background and any measures you have taken to rectify the situation (we call this self-cleaning). For the list of exclusion please see

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/551130/List of Mandatory and Discretionary Exclusions.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf)

A completed declaration of Part 1 and Part 2 provides a formal statement that the organisation making the declaration has not breached any of the exclusions grounds. Consequently we require all the organisations that you will rely on to meet the selection criteria to provide a completed Part 1 and Part 2. For example these could be parent companies, affiliates, associates, or essential sub-contractors, if they are relied upon to meet the selection criteria. This means that where you are joining in a group of organisations, including joint ventures and partnerships, each organisation in that group must complete one of these self-declarations. Sub-contractors that you rely on to meet the selection criteria must also complete a self-declaration (although sub-contractors that are not relied upon do not need to complete the self-declaration).

When completed, this form is to be sent back to the contact point given in the procurement documents along with the selection information requested in the procurement documentation.

#### **Supplier Selection Questions: Part 3**

This document provides instructions on the selection questions you need to respond to and how to submit those responses. If you are bidding on behalf of a group (consortium) or you intend to use sub-contractors, you should complete all of the selection questions on behalf of the consortium and/or any sub-contractors.

If the relevant documentary evidence referred to in the Selection Questionnaire is not provided upon request and without delay we reserve the right to amend the contract award decision and award to the next compliant bidder.

#### **Consequences of misrepresentation**

If you seriously misrepresent any factual information in filling in the Selection Questionnaire, and so induce an authority to enter into a contract, there may be significant consequences. You may be excluded from the procurement procedure, and from bidding for other contracts for three years. If a contract has been entered into you may be sued for damages and the contract may be rescinded. If fraud, or fraudulent intent, can be proved, you or your responsible officers may be prosecuted and convicted of the offence of fraud by false representation, and you must be excluded from further procurements for five years.

## Notes for completion

1. The “authority” means the contracting authority, or anyone acting on behalf of the contracting authority, that is seeking to invite suitable candidates to participate in this procurement process.
2. “You” / “Your” refers to the potential supplier completing this standard Selection Questionnaire i.e. the legal entity responsible for the information provided. The term “potential supplier” is intended to cover any economic operator as defined by the Public Contracts Regulations 2015 (referred to as the “regulations”) and could be a registered company; the lead contact for a group of economic operators; charitable organisation; Voluntary Community and Social Enterprise (VCSE); Special Purpose Vehicle; or other form of entity.
3. Please ensure that all questions are completed in full, and in the format requested. If the question does not apply to you, please state ‘N/A’. Should you need to provide additional information in response to the questions, please submit a clearly identified annex.
4. The authority recognises that arrangements set out in section 1.2 of the standard Selection Questionnaire, in relation to a group of economic operators (for example, a consortium) and/or use of sub-contractors, may be subject to change and will, therefore, not be finalised until a later date. The lead contact should notify the authority immediately of any change in the proposed arrangements and ensure a completed Part 1 and Part 2 is submitted for any new organisation relied on to meet the selection criteria. The authority will make a revised assessment of the submission based on the updated information.
5. For Part 1 and Part 2 every organisation that is being relied on to meet the selection must complete and submit the self-declaration.
6. For answers to Part 3 - If you are bidding on behalf of a group, for example, a consortium, or you intend to use sub-contractors, you should complete all of the questions on behalf of the consortium and/ or any sub-contractors, providing one composite response and declaration.

The authority confirms that it will keep confidential and will not disclose to any third parties any information obtained from a named customer contact, other than to the Cabinet Office and/or contracting authorities defined by the regulations, or pursuant to an order of the court or demand made by any competent authority or body where the authority is under a legal or regulatory obligation to make such a disclosure.

<sup>1</sup> See PCR 2015 regulations 71 (8)-(9)



## Part 1: Potential supplier Information

Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 1	Potential supplier information	
Question number	Question	Response
1.1(a)	Full name of the potential supplier submitting the information	Automate Building & Energy Controls Limited t/a ABEC
1.1(b) – (i)	Registered office address (if applicable)	7 Miller Court, Severn Drive, Tewkesbury, Gloucestershire, GL20 8DN.
1.1(b) – (ii)	Registered website address (if applicable)	www.abec.co.uk
1.1(c)	Trading status a) public limited company b) limited company c) limited liability partnership d) other partnership e) sole trader f) third sector g) other (please specify your trading status)	Limited company.
1.1(d)	Date of registration in country of origin	25th February 2004
1.1(e)	Company registration number (if applicable)	5055271
1.1(f)	Charity registration number (if applicable)	N/A
1.1(g)	Head office DUNS number (if applicable)	737988522
1.1(h)	Registered VAT number	991298570
1.1(i) - (i)	If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established?	N/A
1.1(i) - (ii)	If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s).	N/A
1.1(j) - (i)	Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement?	NO
1.1(j) - (ii)	If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this.	N/A

1.1(k)	Trading name(s) that will be used if successful in this procurement.	ABEC
1.1(l)	Relevant classifications (state whether you fall within one of these, and if so which one) a) Voluntary Community Social Enterprise (VCSE) b) Sheltered Workshop c) Public Service Mutual	No
1.1(m)	Are you a Small, Medium or Micro Enterprise (SME)? <sup>2</sup>	YES
1.1(n)	Details of Persons of Significant Control (PSC), where appropriate: <sup>3</sup> - Name; - Date of birth; - Nationality; - Country, state or part of the UK where the PSC usually lives; - Service address; - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used); - Which conditions for being a PSC are met; - Over 25% up to (and including) 50%, - More than 50% and less than 75%, - 75% or more. (Please enter N/A if not applicable)	[REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED] to (and including) 50%
1.1(o)	Details of immediate parent company: - Full name of the immediate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	N/A
1.1(p)	Details of ultimate parent company: - Full name of the ultimate parent company - Registered office address (if applicable) - Registration number (if applicable) - Head office DUNS number (if applicable) - Head office VAT number (if applicable) (Please enter N/A if not applicable)	N/A

Please note: A criminal record check for relevant convictions may be undertaken for the preferred

suppliers and the persons of significant in control of them.

<sup>2</sup> See EU definition of SME - [https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition\\_en](https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en)

<sup>3</sup> UK companies, Societates European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. See PSC guidance.

Please provide the following information about your approach to this procurement:

Section 1	Bidding Model										
Question number	Question	Response									
1.2(a) - (i)	Are you bidding as the lead contact for a group of economic operators?	<b>NO</b> If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3. If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3.									
1.2(a) - (ii)	Name of group of economic operators (if applicable)	<b>N/A</b>									
1.2(a) - (iii)	Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure.	<b>N/A</b>									
1.2(b) - (i)	Are you or, if applicable, the group of economic operators proposing to use sub-contractors?	<b>NO</b>									
1.2(b) - (ii)	If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.										
	<table border="1"> <tr> <td>Name</td> <td rowspan="8"><b>N/A</b></td> </tr> <tr> <td>Registered address</td> </tr> <tr> <td>Trading status</td> </tr> <tr> <td>Company registration number</td> </tr> <tr> <td>Head Office DUNS number (if applicable)</td> </tr> <tr> <td>Registered VAT number</td> </tr> <tr> <td>Type of organisation</td> </tr> <tr> <td>SME (Yes/No)</td> </tr> </table>		Name	<b>N/A</b>	Registered address	Trading status	Company registration number	Head Office DUNS number (if applicable)	Registered VAT number	Type of organisation	SME (Yes/No)
Name	<b>N/A</b>										
Registered address											
Trading status											
Company registration number											
Head Office DUNS number (if applicable)											
Registered VAT number											
Type of organisation											
SME (Yes/No)											

	The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables	N/A
	The approximate % of contractual obligations assigned to each sub-contractor	

### Contact details and declaration

I declare that to the best of my knowledge the answers submitted and information contained in this document are correct and accurate.

I declare that, upon request and without delay I will provide the certificates or documentary evidence referred to in this document.

I understand that the information will be used in the selection process to assess my organisation's suitability to be invited to participate further in this procurement.

I understand that the authority may reject this submission in its entirety if there is a failure to answer all the relevant questions fully, or if false/misleading information or content is provided in any section.

I am aware of the consequences of serious misrepresentation.

Section 1	Contact details and declaration	
Question Number	Question	Response
1.3(a)	Contact name	
1.3(b)	Name of organisation	ABEC
1.3(c)	Role in organisation	Director
1.3(d)	Phone number	01684 853 780
1.3(e)	E-mail address	
1.3(f)	Postal address	ABEC, 7 Miller Court, Tewkesbury, Glos, GL20 8DN
1.3(g)	Signature (electronic is acceptable)	
1.3(h)	Date	26 <sup>th</sup> March 2018

## Part 2: Exclusion Grounds


Please answer the following questions in full. Note that every organisation that is being relied on to meet the selection must complete and submit the Part 1 and Part 2 self-declaration.

Section 2	Grounds for mandatory exclusion	
Question number	Question	Response
2.1(a)	<b>Regulations 57(1) and (2)</b> The detailed grounds for mandatory exclusion of an organisation are set out on the webpage (see link on page 11), which should be referred to before completing these questions. Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the webpage.	
	Participation in a criminal organisation.	<b>No</b> If Yes please provide details at 2.1(b)
	Corruption.	<b>No</b> If Yes please provide details at 2.1(b)
	Fraud.	<b>No</b> If Yes please provide details at 2.1(b)
	Terrorist offences or offences linked to terrorist activities	<b>No</b> If Yes please provide details at 2.1(b)
	Money laundering or terrorist financing	<b>No</b> If Yes please provide details at 2.1(b)
	Child labour and other forms of trafficking in human beings	<b>No</b> If Yes please provide details at 2.1(b)
2.1(b)	If you have answered yes to question 2.1(a), please provide further details. Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction, Identity of who has been convicted If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents.	n/a
2.2	If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning)	n/a
2.3(a)	<b>Regulation 57(3)</b> Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any	<b>No</b>

	part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions?	
2.3(b)	If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines.	n/a

Please Note: The authority reserves the right to use its discretion to exclude a potential supplier where it can demonstrate by any appropriate means that the potential supplier is in breach of its obligations relating to the non-payment of taxes or social security contributions.

### General Data Protection Regulation (GDPR)

2.4	The service provider needs to demonstrate at all times during the contract duration that it is GDPR compliant and provide an adequate guarantee that it has , or can, implement appropriate technical and organisational measures that are sufficient to secure that the processing will (a) meet the requirements of the GDPR and (b) ensure the protection of the rights of the data subject. The provider should likewise not be passing on any personal data to a sub-contractor or other organisation that cannot comply with these terms and the provider must ensure that this is the case before handing over any personal data.	
2.4 (a)	Please confirm that you are compliant with the new General Data Protection Regulations	Yes
2.4 (b)	<p>Please confirm the technical and organisational measures you have put in place to secure that your data processing</p> <p>(a) meet the requirements of the GDPR</p> <p>(b) ensure the protection of the rights of the data subject and how this would work in practice if you undertook this contract on our behalf?</p>	 Yes. Yes.
2.4 (c)	Please confirm if you would be passing any personal data onto any sub-contractor or other third party organisation in undertaking this contract on our behalf	No
2.4 (d)	<p>If yes please confirm how you would ensure that such sub-contractor / organisations can also comply with the General Data Protection Regulations.</p> <p>N/A</p>	


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Section 3	Grounds for discretionary exclusion	
Question number	Question	Response
	<p><b>Regulation 57 (8)</b>  The detailed grounds for discretionary exclusion of an organisation are set out on this webpage (see link on page 11), which should be referred to before completing these questions.</p> <p>Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation.</p>	
3.1(a)	Breach of environmental obligations?	<b>No</b> If yes please provide details at 3.2
3.1(b)	Breach of social obligations?	<b>No</b> If yes please provide details at 3.2
3.1(c)	Breach of labour law obligations?	<b>No</b> If yes please provide details at 3.2
3.1(d)	Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation's assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State?	<b>No</b> If yes please provide details at 3.2
3.1(e)	Guilty of grave professional misconduct?	<b>No</b> If yes please provide details at 3.2
3.1(f)	Entered into agreements with other economic operators aimed at distorting competition?	<b>No</b> If yes please provide details at 3.2
3.1(g)	Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure?	<b>No</b> If yes please provide details at 3.2
3.1(h)	Been involved in the preparation of the procurement procedure?	<b>No</b> If yes please provide details at 3.2
3.1(i)	Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions?	<b>No</b> If yes please provide details at 3.2
3.1(j)	Please answer the following statements	
3.1(j) - (i)	The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.	<b>No</b> If Yes please provide details at 3.2



3.1(j) - (ii)	The organisation has withheld such information.	<b>No</b> If Yes please provide details at 3.2
3.1(j) –(iii)	The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.	<b>No</b> If Yes please provide details at 3.2
3.1(j)-(iv)	The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award.	<b>No</b> If Yes please provide details at 3.2

3.2	If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant	n/a
3.3	<b>CHAS Accreditation</b>	
	Do you currently have CHAS Accreditation, and external health and safety accreditation, (Contractors Health and Safety Assessment Scheme) OR and equivalent as mutually recognised underSSIP (Safety Schemes in Procurement)?Accepted certificates:- NHBC, EXOR, SAFE Contractor, SMAS Worksafe, Altius VA, Eurosafe UK, BSI OHSAS – 18001, Safe-T-Cert, FSG-Facilities Services Group & CHAS Accreditation  <b>Please enclose certificate</b>	<b>Yes (Attached) - Pls see <u>Appendix 1</u></b>
3.4	<b>Operatives Disclosure and Barring Service - Certification</b>	
	Please confirm that <b>all</b> operatives working under this contract on the maintenance and breakdown of equipment are in possession of a current valid enhanced DBS certificate. Written confirmation of compliance with this must form part of the tender submission.	<b>Yes</b>
3.9	<b>24 Hour a Day 365 Days a Year Cover</b>	
	Please confirm below that you can provide a 24 hour/day, 365 day/year emergency repair service with a maximum response time to attend a site of 2 hours.	<b>Yes</b>

3.10	<b>TREND TCC OR SI</b>	
	Please confirm your company is registered member of TREND TCC OR SI	<p><b>Yes</b></p> <p>Please stipulate which of these you are registered with.</p> <p></p> <p>Proof attached (Yes attached) - Pls see <b>Appendix 2</b></p>

## Part 3: Selection Questions

Section 4	Economic and Financial Standing	
Question number	Question	Response
4.1	Are you able to provide a copy of your audited accounts for the last two years, if requested? If no, can you provide <b>one</b> of the following: answer with Y/N in the relevant box.	<b>Yes</b>
	(a) A statement of the turnover, Profit and Loss Account/Income Statement, Balance Sheet/Statement of Financial Position and Statement of Cash Flow for the most recent year of trading for this organisation.	<b>N/A</b>
	(b) A statement of the cash flow forecast for the current year and a bank letter outlining the current cash and credit position.	<b>N/A</b>
	(c) Alternative means of demonstrating financial status if any of the above are not available (e.g. forecast of turnover for the current year and a statement of funding provided by the owners and/or the bank, charity accruals accounts or an alternative means of demonstrating financial status). (d)	<b>N/A</b>
4.2	Where we have specified a minimum level of economic and financial standing and/ or a minimum financial threshold within the evaluation criteria for this procurement, please self-certify by answering 'Yes' or 'No' that you meet the requirements set out.	<b>Yes</b>

Section 5	If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below:	
Name of organisation		<b>N/A</b>
Relationship to the Supplier completing these questions		<b>N/A</b>

5.1	Are you able to provide parent company accounts if requested to at a later stage?	N/A
5.2	If yes, would the parent company be willing to provide a guarantee if necessary?	N/A
5.3	If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)?	N/A

Section 6	<b>Technical and Professional Ability</b>
6.1	<p><b>Relevant experience and contract examples</b></p> <p>Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.</p> <p>The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.</p> <p>Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).</p> <p>Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or sub-contractor(s) who will deliver the contract.</p> <p>If you cannot provide examples see question 6.3</p>

	Contact 1	Contact 2	Contact 3
Name of customer organisation			
Point of contact in the organisation			
Position in the organisation			
E-mail address			

Description of contract			
Contract Start date			
Contract completion date			
Estimated contract value			

6.2	<p>Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)</p> <p>Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries)</p>


6.3	<p>If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract.</p>
	N/A

Section 7	<b>Modern Slavery Act 2015: Requirements under Modern Slavery Act 2015</b>	
	Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")?	N/A

	If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015?	N/A

## 7. Additional Questions

Suppliers who self-certify that they meet the requirements to these additional questions will be required to provide evidence of this if they are successful at contract award stage.

Section 8	Additional Questions
8.1	Insurance
	<p>Please self-certify whether you already have, or can commit to obtain, prior to the commencement of the contract, the levels of insurance cover indicated below:</p> <p>Yes</p>  <p>*It is a legal requirement that all companies hold Employer's (Compulsory) Liability Insurance of £5 million as a minimum. Please note this requirement is not applicable to Sole Traders.</p>

8.2	<b>Skills and Apprentices 4 –</b>	
a.	<p>Public procurement of contracts with a full life value of <b>£10 million</b> and above and duration of 12 months and above should be used to support skills development and delivery of the apprenticeship commitment. This policy is set out in detail in Procurement Policy Note 14/15.</p> <p>Please confirm if you will be supporting apprenticeships and skills development through this contract.</p>	Yes
b.	If yes, can you provide at a later stage documentary evidence to support your commitment to developing and investing in skills, development and apprenticeships to build a more skilled and productive workforce and reducing the risks of supply constraints and increasing labour cost inflation?	Yes. Pls see <b>Appendix 3</b> which details ABEC's own Academy for training and development of apprentices and post graduates.
c.	Do you have a process in place to ensure that your supply chain supports skills, development and apprenticeships in line with PPN 14/15 (see guidance) and can provide evidence if requested?	Yes

<sup>4</sup> Procurement Policy Note 14/15– Supporting Apprenticeships and Skills Through Public Procurement

[https://www.gov.uk/government/uploads/system/uploads/attachment\\_data/file/456805/27\\_08\\_15\\_Skills\\_A](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/456805/27_08_15_Skills_A)

### 8.3 – Compliance with equality legislation

For organisations working outside of the UK please refer to equivalent legislation in the country that you are located.		
1.	In the last three years, has any finding of unlawful discrimination been made against your organisation by an Employment Tribunal, an Employment Appeal Tribunal or any other court (or in comparable proceedings in any jurisdiction other than the UK)?	No
2.	<p>In the last three years, has your organisation had a complaint upheld following an investigation by the Equality and Human Rights Commission or its predecessors (or a comparable body in any jurisdiction other than the UK), on grounds or alleged unlawful discrimination?</p> <p>If you have answered “yes” to one or both of the questions in this module, please provide, as a separate Appendix, a summary of the nature of the investigation and an explanation of the outcome of the investigation to date.</p> <p>If the investigation upheld the complaint against your organisation, please use the Appendix to explain what action (if any) you have taken to prevent unlawful discrimination from reoccurring.</p> <p>You may be excluded if you are unable to demonstrate to the Authority’s satisfaction that appropriate remedial action has been taken to prevent similar unlawful discrimination reoccurring.</p>	No
3.	If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?	Yes

### 8.4 – Environmental Management


1.	<p>Has your organisation been convicted of breaching environmental legislation, or had any notice served upon it, in the last three years by any environmental regulator or authority (including local authority)?</p> <p>If your answer to the this question is “Yes”, please provide details in a separate Appendix of the conviction or notice and details of any remedial action or changes you have made as a result of conviction or notices served.</p> <p>The Authority will not select bidder(s) that have been prosecuted or served notice under environmental legislation in the last 3 years, unless the Authority is satisfied that appropriate remedial action has been taken to prevent future occurrences/breaches.</p>	Yes
2.	If you use sub-contractors, do you have processes in place to check whether any of these organisations have been convicted or had a notice served upon them for infringement of environmental legislation?	Yes

### 8.5 – Health & Safety

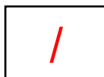
1.	Please self-certify that your organisation has a Health and Safety Policy that complies with current legislative requirements.	Yes
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2.	<p>Has your organisation or any of its Directors or Executive Officers been in receipt of enforcement/remedial orders in relation to the Health and Safety Executive (or equivalent body) in the last 3 years?</p> <p>If your answer to this question was "Yes", please provide details in a separate Appendix of any enforcement/remedial orders served and give details of any remedial action or changes to procedures you have made as a result.</p> <p>The Authority will exclude bidder(s) that have been in receipt of enforcement/remedial action orders unless the bidder(s) can demonstrate to the Authority's satisfaction that appropriate remedial action has been taken to prevent future occurrences or breaches.</p>	No
3.	<p>If you use sub-contractors, do you have processes in place to check whether any of the above circumstances apply to these other organisations?</p>	Yes

### 8.6 - Safeguarding of children

1	Do you have a Safeguarding Policy or statement for safeguarding children?	Enclosed Yes
2	For information: our requests for references will include a question relating to your organisation's record for safeguarding.	
3	<p>As a contractor providing a public service on behalf of a Shropshire Council, we expect that you will be familiar and committed to the local safeguarding procedures as prescribed by Shropshire's Safeguarding Children Board (SSCB) and <a href="http://www.safeguardingshropshireschildren.org.uk/scb/index.html">http://www.safeguardingshropshireschildren.org.uk/scb/index.html</a></p> <p>I/We certify that I/We are familiar with and committed to deliver our service in compliance with local safeguarding processes.</p> <p>Signed </p> <p>Status: Director (For and on behalf of ABEC)</p> <p>Date: 26<sup>th</sup> March 2018</p>	

**8.7** It is a requirement within the terms and conditions for this Contract that where requested in writing during the term of the Agreement that the Contractor 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. Please confirm your acceptance of this term by ticking the box below



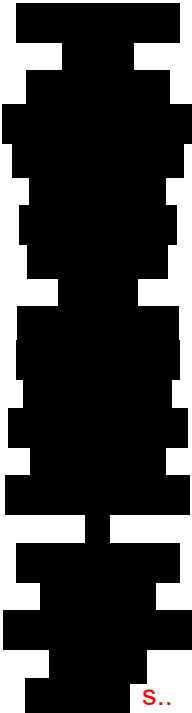
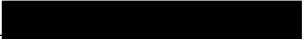

## SECTION C – TENDER SCHEDULE

<b>1.</b>	<b>Pricing Schedule</b>  Before completing this section you should first read the ‘Specification and Servicing Schedule’ documents which contains some important information that will assist in your responses to the questions below.	
1.1	<u>Building Management Servicing Cost</u>  <b>Unit Cost</b> [REDACTED]	420 max marks
1.2	<u>Dayworks</u>  The following costs are to be completed (Breakdown rates)  Hourly rate during normal working hours - [REDACTED]  On cost + profit - [REDACTED]  Call Out Unit Cost - [REDACTED]  <b>Total Cost</b> - [REDACTED]	180 max marks
	Hourly rate outside normal working hours (Mon-Fri) - [REDACTED]  On cost + profit - [REDACTED]  Call Out Unit Cost - [REDACTED]  <b>Total Cost</b> - [REDACTED]   Hourly rate for Saturday working         - [REDACTED]  On cost + profit - [REDACTED]  Call Out Unit Cost - [REDACTED]  <b>Total Cost</b> - [REDACTED]   Hourly rate for Sunday working             - [REDACTED]  On cost + profit - [REDACTED]  Call Out Unit Cost - [REDACTED]  <b>Total Cost</b> - [REDACTED]   Hourly rate for Bank Holiday working - [REDACTED]	For Information Only



<p>On cost + profit - [REDACTED]</p> <p>Call Out Unit Cost - [REDACTED]</p> <p><b>Total Cost - [REDACTED]</b></p> <p>Please note that the Call Out Unit Costs are to include the first hour on site in addition to traveling time and millage costs</p> <p>Percentage additions on net cost of [REDACTED] Material to cover profit handling, etc.</p> <p>Any special conditions applicable to [REDACTED]</p> <p>Contractor Name: <b>ABEC</b></p> <p>Name: [REDACTED]</p> <p>[REDACTED]</p> <p>Date: <b>26<sup>th</sup> March 2018</b></p>	
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<b>Quality Assessment</b>		
	<b>Methodology and Case Study of Previous Experience:</b>	
2.1	In order to illustrate the methodology that you will use to undertake this contract if you were successful, please provide a case study of a previous similar contract and provide full details of how that project was delivered and the methodology you used	8 / 80 max marks
	<b>Technical Information: *Please refer fully to the requirements of the specification and servicing schedule documentation before submitting the requested information below.*</b>	
2.2	Please provide printed examples of your electronic service reports for <b>all</b> elements for this contract. <p style="text-align: right;">Copies Enclosed <b>YES</b></p>	6 / 60 max marks  <b>Pls see <u>Appendix 4</u></b>  (Service reports with quotations as well)
2.3	Please provide printed examples of your electronic breakdown/repair report for <b>all</b> elements for this contract. <p style="text-align: right;">Copies Enclosed <b>YES</b></p>	6 / 60 max marks  <b>Pls see <u>Appendix 5</u></b>
2.4	Please provide detailed risk assessments for carrying out the service routines for <b>all</b> elements for this contract.	6 / 60 max marks

	Copies Enclosed YES	Pls see <a href="#">Appendix 6</a>
2.5	Please provide detailed method statements for carrying out service routine for <b>all</b> elements for this contract.  Copies Enclosed YES	6 / 60 max marks  Pls see <a href="#">Appendix 7</a>
2.6	Please provide an example quotation report that meets the requirement of the specification document for <b>all</b> elements for this contract.  Copies Enclosed YES	2 / 20 max marks  Pls see <a href="#">Appendix 8</a>
<b><u>Qualifications, Experience and Resources:</u></b>		
2.7	Please provide details of engineer's qualifications and evidence of CPD relevant to the nature works of this covered in this Contract. Please fill out Appendix B – Staff Experience Forms.  Copies Enclosed YES	1 / 10 max marks  Pls see <a href="#">Appendix 9 &amp; 10</a>   S..
2.8	How many years has your company been involved in the inspection, certification and repair of Building Management System?  	For information only
2.9	Total number of employees: 	For information only
2.10	Please provide details of the resources <b><u>available for this contract.</u></b>	2 / 20 max marks

	<table border="1"> <tr> <th>Type</th><th>No. of employees</th></tr> <tr> <td>Management</td><td>1</td></tr> <tr> <td>Senior Engineers / Technicians</td><td>1</td></tr> <tr> <td>Engineers</td><td>1</td></tr> <tr> <td>Apprentices</td><td>1</td></tr> <tr> <td>Administration</td><td>1</td></tr> </table>	Type	No. of employees	Management	1	Senior Engineers / Technicians	1	Engineers	1	Apprentices	1	Administration	1																																												
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<b>Quality Assurance:</b>																																																									
2.11	<p>Please state any formal quality assurance systems relevant to this contract, which your company operates i.e. ISO 9001:2015, 14001:2015) or EU Equivalent.</p> <table border="1"> <thead> <tr> <th>Name of awarding organisation / body</th><th>Registration number</th><th>Name of quality assurance system</th><th>Date achieved</th><th>Date of expiry / renewal</th></tr> </thead> <tbody> <tr> <td colspan="5">[Redacted]</td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> <tr> <td></td><td></td><td></td><td></td><td></td></tr> </tbody> </table>	Name of awarding organisation / body	Registration number	Name of quality assurance system	Date achieved	Date of expiry / renewal	[Redacted]																																																		1 / 10 max marks
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2.12	<p>Deriving Social Value outcomes from our contracting is important for Shropshire Council. Accordingly, please provide details of any economic, environmental or social benefits you will deliver if you are awarded the contract and undertake the required services.</p> <p>[Redacted]</p>	2 / 20 max marks																																																							

commercial info

	<p>!! [REDACTED]</p> <p>[REDACTED]</p>	
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personal & commercial info

ABEC  
7 Miller Court  
Tewkesbury  
Glos  
GL20 8DN  
FAO [REDACTED]

Shropshire Council  
Shirehall  
Abbey Foregate  
Shrewsbury  
Shropshire SY2 6ND

Sent by email to: [REDACTED]

25<sup>th</sup> April 2018

Dear Bidder

## ROCB 012 - MAINTENANCE OF BUILDING MANAGEMENT SYSTEMS

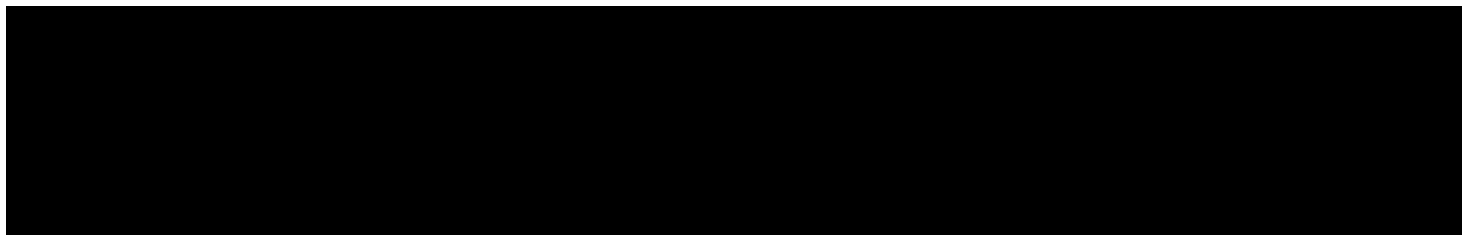
### SHROPSHIRE COUNCIL

### SUBJECT TO CONTRACT

This is an Award Decision Notice. We are pleased to inform you that, following the evaluation process, Shropshire Council proposes to accept your offer in relation to the above Contract.

However, this letter is not, at this stage, a communication of Shropshire Council's formal acceptance of your bid. A mandatory "standstill" period is now in force; this period will end at midnight on 7<sup>th</sup> May 2018.

This award notification is also subject to you now providing copies of your relevant insurance certificates together with confirmation from your insurance brokers that:-

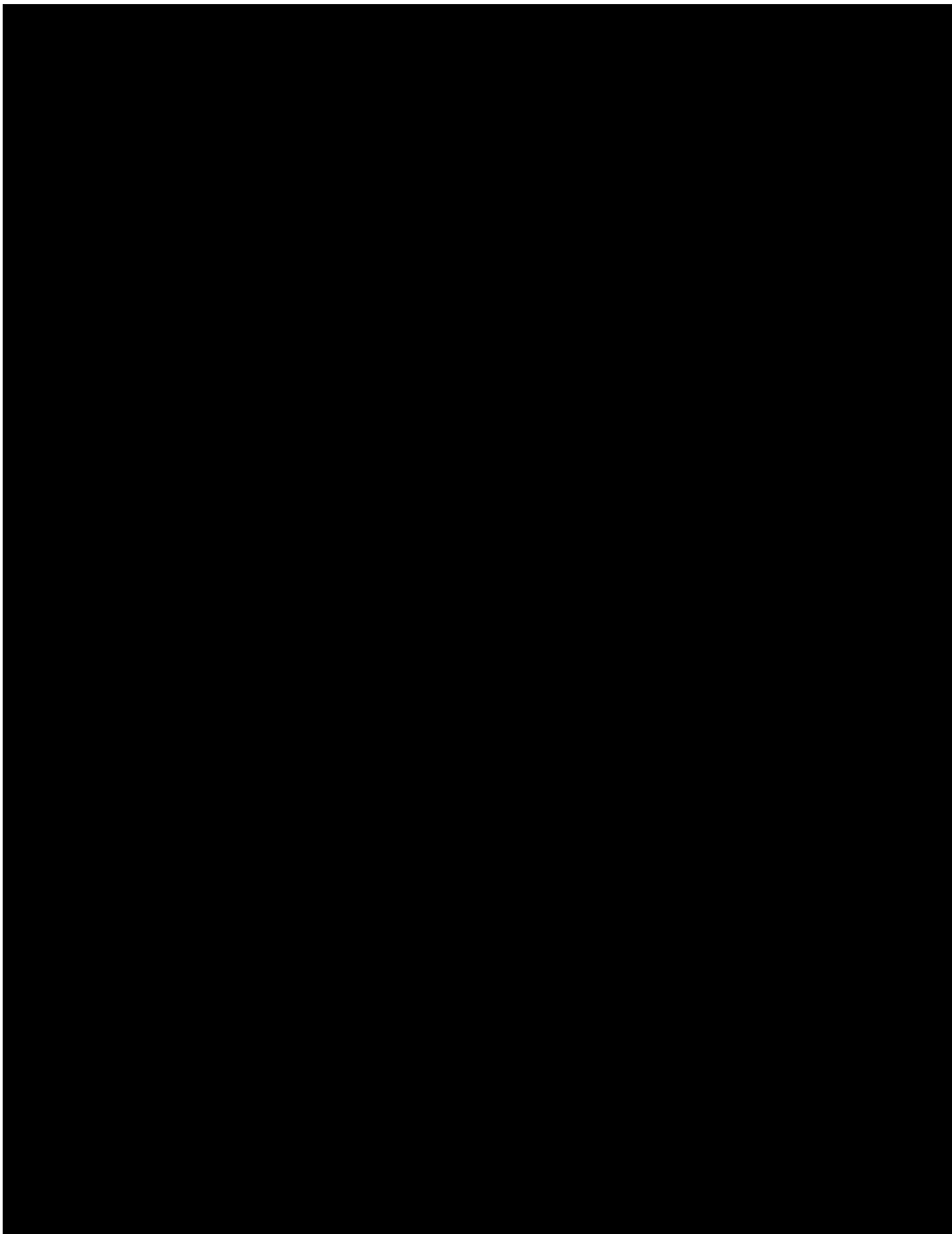


We can confirm that your tender received the following scores and ranking:-

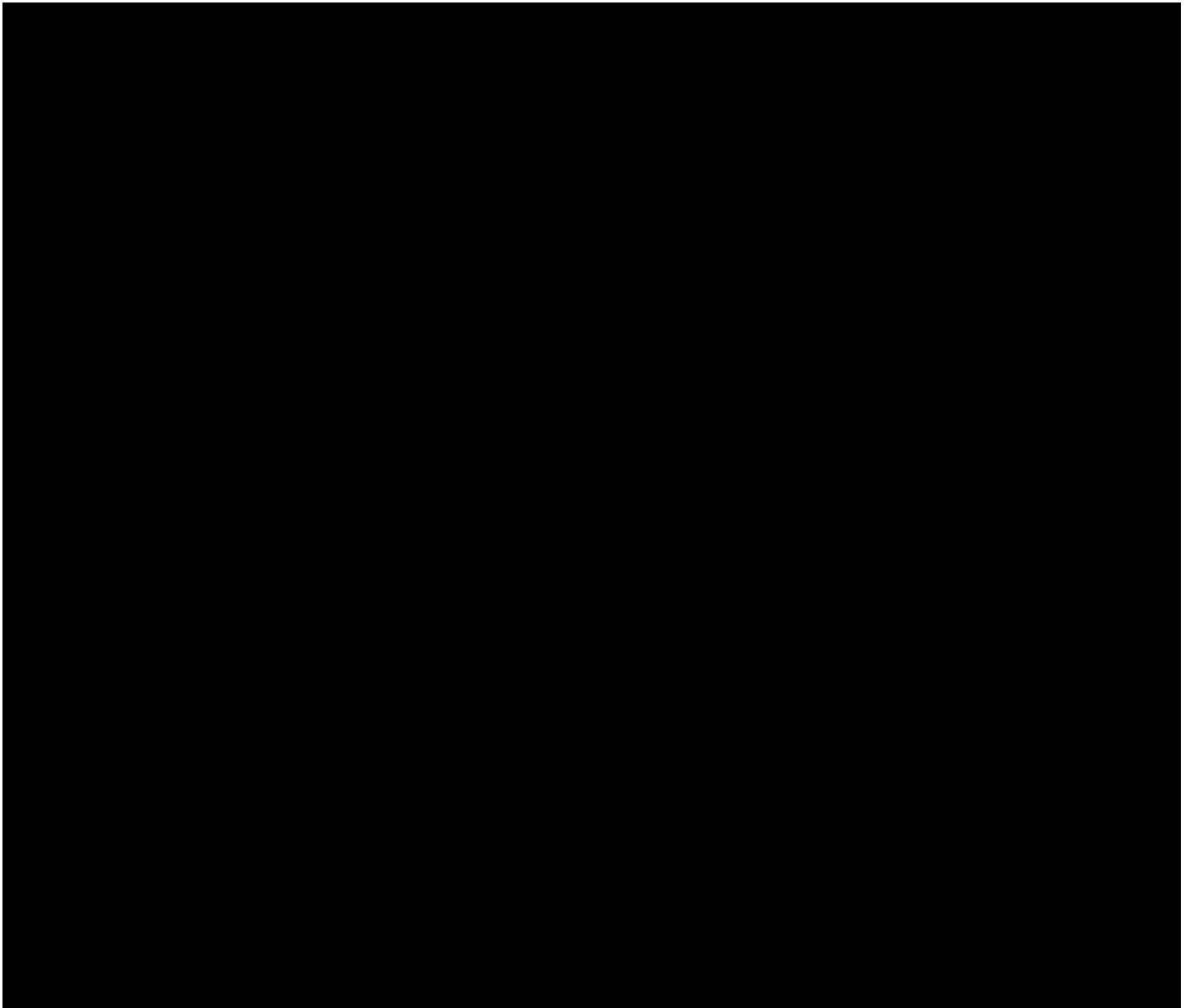
Criteria	Your Score	Your Rank (out of all 11 tenders received)
Quality	[REDACTED]	[REDACTED]
Price	[REDACTED]	[REDACTED]
Overall	[REDACTED]	[REDACTED]

For your further information, we would confirm that your quality submission was scored against the published scoring scheme and the stated award criteria and received the marks set out:

commercial info

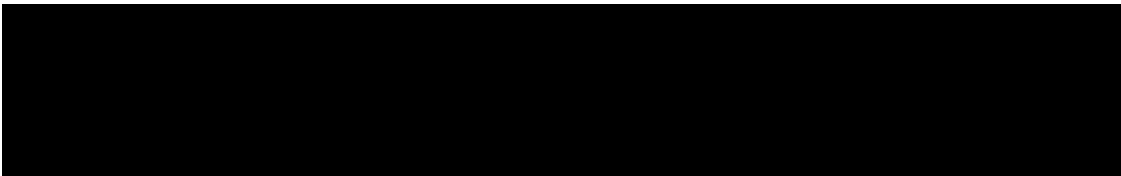


commercial & personal info



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

Yours faithfully



Premises Services Manager

Senior Mechanical Surveyor