DATED 2022

GLOUCESTERSHIRE COUNTY COUNCIL (1)

- and -

[●●●●●] LIMITED (2)

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**FRAMEWORK AGREEMENT**relating to the supply of school catering services for specified

primary, secondary and special schools in Gloucestershire together with Shire Hall catering services  
\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Legal Services

Gloucestershire County Council

Shire Hall

Westgate Street

Gloucester

GL1 2TG

**FRAMEWORK AGREEMENT**

DATED 2022

**BETWEEN:**

(1) **GLOUCESTERSHIRE COUNTY COUNCIL** of Shire Hall Gloucester GL1 2TG (the “Authority”) and

(2) **[●●●●●]** [(company number ●●●●●)] whose registered office is at [●●●●●] (the “Provider”)

**WHEREAS:**

(A) The Authority placed a contract notice ●●●●● on ●●●●● on the Find a Tender Service seeking expressions of interest from potential providers for the provision of services to the Authority together with one or more Contracting Schools under a framework agreement.

(B) The Provider submitted its expression of interest on [●●**date●●**] in response to the contract notice.

(C) The Authority invited potential providers (including the Provider) on ●●●●● to tender for the provision of school catering services for specified primary, secondary and special schools in Gloucestershire and catering services at Shire Hall.

(D) The Provider submitted a tender on [●●**date●●**].

(E) On the basis of the Provider's tender, the Authority selected the Provider to enter a framework agreement to provide services to the Contracting Schools and the Authority on a call-off basis in accordance with this Framework Agreement.

(F) This Framework Agreement sets out the award and ordering procedure for services which may be required by one or more of the Contracting Schools and the Authority, the main terms and conditions for any Call-Off Contract which the Contracting Schools may conclude, and the obligations of the Provider during and after the term of this Framework Agreement.

(G) It is the Parties' intention that there will be no obligation for the Authority or any of the Contracting Schools to award any orders under this Framework Agreement during the Framework Term.

**IT IS AGREED** as follows:

1. INTERPRETATION
   1. Unless the context otherwise requires, the following words and expressions shall have the following meanings:

|  |  |
| --- | --- |
| **AOC** | means the Contractor’s attestation of compliance with the payment card industry data security standard as set out in Schedule 9 |
| **"Approval"** | means the prior written approval of the Authority |
| **"Audit"** | means an audit carried out pursuant to Clause 22 |
| **"Auditor"** | means the National Audit Office or an auditor appointed by the Audit Commission as the context requires |
| **“Authority Data”** | 1. means: 2. (a) any Personal Data for which the Authority or any Contracting School is the Data Controller; 3. (b) any data which relate to deceased individuals who can be identified from those data which the Provider is required to collect, generate, process, store or transmit pursuant to this Framework Agreement and/or any Call-Off Contract; and 4. (c) 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 (including, without limitation, paperwork) and which are: 5. (i) supplied or made available to the Provider by or on behalf of the Authority or any Contracting School; or 6. (ii) obtained by the Provider for the purpose of enabling the provision of the Services or the fulfilment of the Provider’s obligations under this Framework Agreement, or otherwise in the possession, custody or control of the Provider in accordance with this Framework Agreement and/or any Call-Off Contract;   (iii) accessed, generated, created, collected, stored, generate, processed or transmitted by the Provider in the course of performance of the Services and/or pursuant to this Framework Agreement and/or any Call-Off Contract. |
| **[Council Security Standards Forms]** | [shall bear the meaning attributed to it in Schedule 8] |
| **[“Baseline Security Standards Form (People Services)”]** | [shall bear the meaning attributed to it in Schedule 8] |
| **"Call-Off Contract"** | means the legally binding agreement (made pursuant to the provisions of this Framework Agreement) for the provision of Services made between the Authority or a Contracting School and the Provider comprising an Order Form and either the Call-Off Terms and Conditions for Schools or the Call-Off Contract for Shire Hall (as may be amended pursuant to Clause 33.1) |
| **"Call-Off Terms and Conditions for Schools"** | means the terms and conditions in Schedule 4A |
| **"Call-Off Terms and Conditions for Shire Hall"** | means the terms and conditions in Schedule 4B |
| **"Commencement Date"** | means ●●●2022 |
| **“Cardholder”** | meansthenon-consumer or consumer customer to whom a payment card is issued to or any individual authorized to use the payment card. |
| **“Cardholder Data”** | means the full PAN, cardholder name, expiration date, service code and sensitive authentication data comprising the full magnetic stripe data or equivalent on a chip, card security code (either encoded within the magnetic stripe within the chip or the 3 digits on the back of the card and PINs |
| **"Commercially Sensitive Information"** | means any Confidential Information comprised of information:   * + - 1. which is provided in writing by the Provider to the Authority in confidence and designated in writing as Commercially Sensitive Information; and/or   (b) that constitutes a trade secret |
| **"Complaint"** | means any formal complaint raised by the Authority or any Contracting School in relation to the performance of the Framework Agreement or any Call-Off Contract in accordance with Clause 40 |
| **"Confidential Information"** | means any information which has been designated as confidential by either Party in writing or that ought to be considered as confidential (however it is conveyed or on whatever media it is stored) including information which would or would be likely to prejudice the commercial interests of any person, trade secrets, Intellectual Property Rights, know-how of either Party and all personal data and sensitive data within the meaning of the DPA |
| **“Contracting Authority”** | means any contracting authority as defined in Regulation 3 of the Public Contracts Regulations 2015 other than the Authority |
| **"Contracting Schools"** | means the contracting schools referenced by location in the Find A Tender Service Notice and “**Contracting School**” shall be construed accordingly |
| “**Controller, Processor, Data Subject, Personal Data, Personal Data Breach, processing** and **appropriate technical and organisational measures**” | as defined in the Data Protection Legislation. |
| "**Default**" | means any breach of the obligations of the relevant Party (including but not limited to fundamental breach or breach of a fundamental term) or any other default, act, omission, negligence or negligent statement of the relevant Party or the Staff in connection with or in relation to the subject-matter of the Framework Agreement and in respect of which such Party is liable to the other |
| **"Data Protection Legislation"** | all applicable data protection and privacy legislation in force from time to time in the UK including the retained EU law version of the General Data Protection Regulation ((EU) 2016/679) (UK GDPR); the Data Protection Act 2018 (DPA 2018) (and regulations made thereunder) and the Privacy and Electronic Communications Regulations 2003 (SI 2003/2426) as amended |
| **“Domestic Law”** | means the law of the United Kingdom or a part of the United Kingdom |
| **"Environmental Information Regulations"** | mean the Environmental Information Regulations 2004 together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such regulations |
| **"FOIA"** | means the Freedom of Information Act 2000 and any subordinate legislation made under such Act from time to time together with any guidance and/or codes of practice issued by the Information Commissioner or relevant Government department in relation to such legislation |
| **"Framework Agreement"** | means this agreement and all Schedules to this agreement |
| **"Framework Term"** | means the period commencing on the Commencement Date and ending on ●●●2026 or on earlier termination of this Framework Agreement |
| **"Fraud"** | means any offence under Laws creating offences in respect of fraudulent acts or at common law in respect of fraudulent acts in relation to the Framework Agreement or defrauding or attempting to defraud or conspiring to defraud the Authority or any Contracting School |
| **"Good Industry Practice"** | means standards, practices, methods and procedures conforming to the Law and the degree of skill and care, diligence, prudence and foresight which would reasonably and ordinarily be expected from a skilled and experienced person or body engaged in a similar type of undertaking under the same or similar circumstances |
| **"Guidance"** | means any guidance issued or updated by the UK Government from time to time in relation to the Regulations |
| **"Information"** | has the meaning given under Section 84 of the Freedom of Information Act 2000 |
| **"Intellectual Property Rights"** | means patents, inventions, trade marks, service marks, logos, design rights (whether registerable or otherwise), applications for any of the foregoing, copyright, database rights, domain names, trade or business names, moral rights and other similar rights or obligations whether registerable or not in any country (including but not limited to the United Kingdom) and the right to sue for passing off |
| **"ITT"** | means the invitation to tender issued by the Authority on ●●●a copy of which is incorporated hereto as Schedule 5 |
| **"Law"** | means any applicable Act of Parliament, subordinate legislation within the meaning of Section 21(1) of the Interpretation Act 1978, exercise of the royal prerogative, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements of any Regulatory Body |
| **"Management Information"** | means the management information specified in Clause 21 |
| **"Material Default"** | means any breach of Clause 12 (Award Procedures), Clause 16 (Safeguard Against Fraud), Clause 19 (Statutory Requirements), Clause 20 (Non-Discrimination), Clause 21 (Provision of Management Information), Clause 22 (Records and Audit Access), Clause 24 (Data Protection), Clause 26 (Freedom of Information), Clause 28.2 (Termination) and Clause 32 (Transfer and Sub-contracting) |
| **"Month"** | means a calendar month |
| **"Find A Tender Service Notice"** | means the contract notice described in Recital A hereto |
| **"Order"** | means an order for Services in the form described in Clause 12.5 served by the Authority or any Contracting School on the Provider in accordance with the Ordering Procedures |
| **"Order Form"** | means a document setting out details of an Order in the form set out in Schedule 2 |
| **"Ordering Procedures"** | means the ordering and award procedures specified in Clause 12 |
| **“PAN”** | means the primary account number the unique payment card number that identifies the issuer and particular cardholder account |
| **"Parent Company"** | means any company which is the ultimate Holding Company of the Provider and which is either responsible directly or indirectly for the business activities of the Provider or which is engaged in the same or similar business to the Provider. The term "**Holding Company**" shall have the meaning ascribed by Section  1159 of the Companies Act 2006 or any statutory re-enactment or amendment thereto |
| **"Party"** | means the Authority and/or the Provider and “**Parties**” shall be construed accordingly |
| **“Payment Handling Questionnaire”** | means the Authority’s information handling requirement payment handling questionnaire described in clause 25.4 and as set out in Schedule 9 |
| **“PCI-DSS”** | payment card industry data security standard |
| **“PIN”** | means the personal identification number known only to the user and used for automated teller machines for cash advance transactions |
| **"Pricing Matrices"** | means the pricing matrices set out in Schedule 3 |
| **"Regulations"** | means the Public Contracts Regulations 2015 |
| **"Regulatory Bodies"** | means those government departments and regulatory, statutory and other entities, committees, ombudsmen 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 Framework Agreement or any other affairs of the Authority |
| **"Requests for Information"** | means a request for information or an apparent request under the FOIA or the Environmental Information Regulations |
| **"Services"** | means the school catering services and/or Shire Hall catering services detailed in the relevant Specification |
| **“Shire Hall”** | means the Authority’s premises at Shire Hall, Westgate Street, Gloucester, GL1 2TG |
| **“Specification”** | means the specification for services set out in Schedule 1 |
| **“Social Value Requirements”** | means the delivery of the approved social value delivery plan and associated provisions as set out in Schedule 7 |
| **"Staff"** | means all persons employed by the Provider together with the Provider's servants, agents, suppliers and sub-contractors used in the performance of its obligations under this Framework Agreement or Call-Off Contracts |
| “Subcontract” | means any contract between the Contractor and a third party pursuant to which the Contractor agrees to source the provision of any of the Services from that third party. |
| “Subcontractor” | means the contractors or providers that enter into a Subcontract with the Contractor |
| **"Tender"** | means the tender submitted by the Provider to the Authority on [●●●●●] a copy of which is incorporated hereto as Schedule 6 |
| **"Working Days"** | means any day other than a Saturday, Sunday or public holiday in England and Wales |
| **"Year"** | means a calendar year |

* 1. The interpretation and construction of this Framework Agreement shall all be subject to the following provisions:
     1. words importing the singular meaning include where the context so admits the plural meaning and vice versa;
     2. words importing the masculine include the feminine and the neuter;
     3. the words "include", "includes" and "including" are to be construed as if they were immediately followed by the words "without limitation";
     4. references to any person shall include natural persons and partnerships, firms and other incorporated bodies and all other legal persons of whatever kind and however constituted and their successors and permitted assigns or transferees;
     5. references to any statute, enactment, order, regulation or other similar instrument shall be construed as a reference to the statute, enactment, order, regulation or instrument as amended by any subsequent enactment, modification, order, regulation or instrument as subsequently amended or re-enacted;
     6. headings are included in this Framework Agreement for ease of reference only and shall not affect the interpretation or construction of this Framework Agreement;
     7. references in this Framework Agreement to any Clause or Sub-Clause or Schedule without further designation shall be construed as a reference to the Clause or Sub-Clause or Schedule to this Framework Agreement so numbered;
     8. references in this Framework Agreement to any paragraph or sub-paragraph without further designation shall be construed as a reference to the paragraph or sub-paragraph of the relevant Schedule to this Framework Agreement so numbered;
     9. reference to a Clause is a reference to the whole of that clause unless stated otherwise; and
     10. in the event and to the extent only of any conflict between the Clauses and the remainder of the Schedules, the Clauses shall prevail over the remainder of the Schedules.

1. Term of Framework Agreement
   1. The Framework Agreement shall take effect on the Commencement Date and (unless it is otherwise terminated in accordance with the terms of this Framework Agreement or it is otherwise lawfully terminated) shall terminate at the end of the Framework Term.

1. SCOPE OF FRAMEWORK AGREEMENT
   1. This Framework Agreement governs the relationship between the Authority and the Provider in respect of the provision of the Services by the Provider to the Authority and Contracting Schools.
   2. The Authority and the Contracting Schools may at their absolute discretion and from time to time order Services from the Provider in accordance with the Ordering Procedure during the Framework Term. The Parties acknowledge and agree that the Authority and the Contracting Schools have the right to order Services pursuant to this Framework Agreement provided that they comply at all times with all Laws (including, but not limited to, the Regulations and the Guidance) and the Ordering Procedure.
   3. The Provider acknowledges that there is no obligation for the Authority or for any Contracting School to purchase any Services from the Provider during the Framework Term.
   4. No undertaking or any form of statement, promise, representation or obligation shall be deemed to have been made by the Authority and/or any Contracting School in respect of the total quantities or values of the Services to be ordered by them pursuant to this Framework Agreement and the Provider acknowledges and agrees that it has not entered into this Framework Agreement on the basis of any such undertaking, statement, promise or representation.

1. PROVIDER'S APPOINTMENT
   1. The Authority appoints the Provider as a potential provider of the Services and the Provider shall be eligible to be considered for the award of Orders for such Services by the Authority and the Contracting Schools during the Framework Term.

1. NON-EXCLUSIVITY
   1. The Provider acknowledges that, in entering this Framework Agreement, no form of exclusivity or volume guarantee has been granted by the Authority or the Contracting Schools for Services from the Provider and that the Authority and/or the Contracting Schools are at all times entitled to enter into other contracts and arrangements with other providers for the provision of any or all services which are the same as or similar to the Services.

1. AwarD PROCEDURES

Awards under the Framework Agreement

* 1. If the Authority or any Contracting School decide to source Services through the Framework Agreement then it may award its Services requirements in accordance with the terms laid down in this Framework Agreement.
  2. The Authority and/or any Contracting School ordering Services under the Framework Agreement shall:
     1. place an Order with the Provider which, inter alia:
        1. states the Services requirements;
        2. identifies the location where the Services are to be supplied;
        3. states the price payable for the Services requirements in accordance with the Pricing Matrices applicable for the relevant Contracting School or Shire Hall; and
        4. incorporates (as appropriate) either the Call-Off Terms and Conditions for Schools or the Call-Off Terms and Conditions for Shire Hall .
  3. Nothing in this Framework Agreement shall oblige the Authority or any Contracting School to place any Order for Services.

Responsibility for Awards

* 1. The Provider acknowledges that each Contracting School is independently responsible for the conduct of its award of Call-Off Contracts under the Framework Agreement and that the Authority is not responsible or accountable for and shall have no liability whatsoever in relation to:
     1. the conduct of Contracting Schools in relation to the Framework Agreement; or
     2. the performance or non-performance of any Call-Off Contracts between the Provider and Contracting Schools entered into pursuant to the Framework Agreement.

Form of Order

* 1. Subject to Clauses 12.1 to 12.4 above, the Authority and each Contracting School may place an Order with the Provider by serving an Order Form in writing in substantially the form set out in Schedule 2 or such similar or analogous form agreed with the Provider including systems of ordering involving electronic mail or other on-line solutions. The Parties agree that any document or communication (including any document or communication in the apparent form of an Order) which is not in the form prescribed by this Clause 12.5 shall not constitute an Order under this Framework Agreement.

Accepting Orders

* 1. Following receipt of an Order, the Provider shall promptly and in any event within a reasonable period (taking into account all relevant circumstances in relation to the subject matter and nature of an Order) determined by the Authority or relevant Contracting School and notified to the Provider in writing at the same time as the submission of the Order (which in any event shall not exceed five (5) Working Days) acknowledge receipt of the Order and notify the Authority or relevant Contracting School that it accepts the Order by signing and returning the Order Form.
  2. The Provider in agreeing to accept such an Order pursuant to Clause12.6 above shall enter a Call-Off Contract with the Authority or relevant Contracting School for the provision of Services referred to in that Order. A Call-Off Contract shall be formed on the Authority’s or Contracting School's receipt of the signed Order Form provided by the Provider (or such similar or analogous form agreed with the Provider) pursuant to Clause 12.5.
  3. Any failure or refusal by the Provider to accept an Order pursuant to Clause 12.6 shall be deemed a Material Default for the purposes of Clause 28.1.1.

1. WARRANTIES AND REPRESENTATIONS
   1. The Provider warrants and represents to the Authority that:
      1. it has full capacity and authority and all necessary consents (including, where its procedures so require, the consent of its Parent Company) to enter into and to perform its obligations under this Framework Agreement;
      2. this Framework Agreement is executed by a duly authorised representative of the Provider;
      3. in entering into this Framework Agreement or any Call-Off Contract it has not committed any Fraud;
      4. as at the Commencement Date, all information, statements and representations contained in the Tender (including where applicable statements made in relation to the categories referred to in Regulations 23, 24 and 25 of the Regulations) for the Services are true, accurate and not misleading save as may have been specifically disclosed in writing to the Authority prior to the execution of this Framework Agreement and it will promptly advise the Authority of any fact, matter or circumstance of which it may become aware which would render any such information, statement or representation to be false or misleading;
      5. it has not entered into any agreement with any other person with the aim of preventing tenders being made or as to the fixing or adjusting of the amount of any tender or the conditions on which any tender is made in respect of the Framework Agreement;
      6. it has not caused or induced any person to enter such agreement referred to in Clause 13.1.5 above;
      7. it has not offered or agreed to pay or give 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 any act or omission in relation to any other tender or proposed tender for Services under the Framework Agreement;
      8. it has not committed any offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972;
      9. no claim is being asserted and no litigation, arbitration or administrative proceeding is presently in progress or, to the best of its knowledge and belief, pending or threatened against it or any of its assets which will or might affect its ability to perform its obligations under this Framework Agreement and any Call-Off Contract which may be entered into with the Authority or any of the Contracting Schools;
      10. it is not subject to any contractual obligation, compliance with which is likely to have an effect on its ability to perform its obligations under this Framework Agreement and any Call-Off Contract which may be entered into with the Authority or any of the Contracting Schools;
      11. no proceedings or other steps have been taken and not discharged (nor, to the best of its knowledge, are threatened) for the winding up of the Provider or for its dissolution or for the appointment of a receiver, administrative receiver, liquidator, manager, administrator or similar officer in relation to any of the Provider's assets or revenue; and
      12. in the three (3) years prior to the date of this Framework Agreement:
          1. it has conducted all financial accounting and reporting activities in compliance in all material respects with the generally accepted accounting principles that apply to it in any country where it files accounts;
          2. it has been in full compliance with all applicable securities laws and regulations in the jurisdiction in which it is established; and
          3. it has not performed any act or omission with respect to its financial accounting or reporting which could have an adverse effect on the Provider's position as an ongoing business concern or its ability to fulfil its obligations under this Framework Agreement.
   2. The Provider represents and warrants that all written statements and representations in any written submissions made by the Provider in the Council Security Standards Forms, the [Baseline Security Standards Form (Hosted Software Services)] [and/or] [(as appropriate) the Baseline Security Standards Form (People Services)] are true and accurate on the date of signature of this Framework Agreement and shall remain true and accurate throughout the Framework Term except to the extent that such statements and representations have been superseded or varied by this Framework Agreement or to the extent that the Provider has otherwise disclosed to the Authority in writing prior to the date of this Agreement. If at any time the Authority becomes aware that the representation or warranty given by it under this Clause 7.2 has been breached, is untrue or is misleading, it shall immediately notify the Authority of the relevant occurrence in sufficient detail to enable the Authority make an accurate assessment of the situation
   3. The Provider warrants and represents to each of the Contracting Schools the statements in Clause 13.1 above.

1. CORRUPT GIFTS AND PAYMENTS OF COMMISSIOn
   1. The Provider shall not offer or give, or agree to give, to any employee, agent, servant or representative of the Authority or any other public body or person employed by or on behalf of the Authority or any other public body any gift or consideration of any kind which could act as an inducement or reward for doing, refraining from doing, or for having done or refrained from doing, any act in relation to this Framework Agreement, any Call-Off Contract or any other contract with the Authority or any other public body or person employed by or on behalf of the Authority or any other public body (including its award to the Provider, execution or any rights and obligations contained in it), or for showing or refraining from showing favour or disfavour to any person in relation to any such contract. The attention of the Provider is drawn to the criminal offences under the Bribery Act 2010 and Section 117(2) of the Local Government Act 1972.
   2. The Provider warrants that it has not paid commission nor agreed to pay any commission to the Authority or any other public body or any person employed by or on behalf of the Authority or any other public body in connection with this Framework Agreement, any Call-Off Contract or any other contract with the Authority or any other public body or person employed by or on behalf of the Authority or any other public body.
   3. If the Provider, its Staff or any person acting on the Provider's behalf, engages in conduct prohibited by Clauses 14.1 or 14.2 above or commits any offence under the Bribery Act 2010 or Section 117(2) of the Local Government Act 1972 the Authority may:
      1. terminate the Framework Agreement with immediate effect by giving notice in writing to the Provider and recover from the Provider the amount of any loss suffered by the Authority resulting from the termination; or
      2. recover in full from the Provider and the Provider shall indemnify the Authority in full from and against any other loss sustained by the Authority in consequence of any breach of this Clause, whether or not the Framework Agreement has been terminated.

1. CONFLICTS OF INTEREST
   1. The Provider shall take appropriate steps to ensure that neither the Provider nor any Staff are placed in a position where (in the reasonable opinion of the Authority) there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider or Staff and the duties owed to the Authority and the Contracting Schools under the provisions of this Framework Agreement or any Call-Off Contract.
   2. The Provider shall promptly notify and provide full particulars to the Authority or the relevant Contracting School if such conflict referred to in Clause 15.1 above arises or is reasonably foreseeable to arise.
   3. The Authority reserves the right to terminate this Framework Agreement immediately by giving notice in writing to the Provider and/or to take such other steps it deems necessary where, in the reasonable opinion of the Authority, there is or may be an actual conflict, or a potential conflict, between the pecuniary or personal interests of the Provider and the duties owed to the Authority under the provisions of this Framework Agreement or any Call-Off Contract. The action of the Authority pursuant to this Clause shall not prejudice or affect any right of action or remedy which shall have accrued or shall thereafter accrue to the Authority.
   4. This Clause shall apply during the Framework Term and for a period of two (2) years after its termination or expiry.

1. SAFEGUARD AGAINST FRAUD
   1. The Provider shall safeguard the Authority and any Contracting School's funding of the Framework Agreement and any Call-Off Contract against Fraud generally and, in particular, Fraud on the part of the Provider or its Staff. The Provider shall notify the Authority or the relevant Contracting School immediately if it has reason to suspect that any Fraud has occurred or is occurring or is likely to occur.

1. CALL-OFF CONTRACT PERFORMANCE
   1. The Provider shall perform all Call-Off Contracts entered into with the Authority and/or any Contracting School in accordance with:
      1. the requirements of this Framework Agreement; and
      2. the terms and conditions of the respective Call-Off Contracts.
   2. The Provider shall ensure that a sufficient number of area managers are made available to perform the obligations specified in paragraph 6.1 of the Schools Catering Service Specification.
   3. In the event of, and only to the extent of, any conflict between the terms and conditions of this Framework Agreement and the terms and conditions of a Call-Off Contract, the terms and conditions of this Framework Agreement shall prevail.

1. PRICES FOR SERVICES
   1. The prices offered by the Provider for Call Off Contracts to the Authority and/or Contracting Schools for Services shall be the prices listed in the Pricing Matrices for Shire Hall and/or the relevant Contracting School and such prices shall be adjusted in accordance with the provisions of the relevant Call-Off Contract.

1. STATUTORY REQUIREMENTS
   1. The Provider shall be responsible for obtaining all licences, authorisations, consents or permits required in relation to the performance of this Framework Agreement and any Call-Off Contract.

1. NON-DISCRIMINATION
   1. The Provider shall not unlawfully harass or victimise a person or discriminate either directly or indirectly because of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, colour, nationality, ethnic or national origin, religion, or belief, sex, or sexual orientation (the Protected Characteristics) and without prejudice to the generality of the foregoing the Provider shall not unlawfully discriminate within the meaning and scope of the Equality Act 2010, the Human Rights Act 1998 or other relevant legislation, or any statutory modification or re-enactment thereof.
   2. The Provider shall take all reasonable steps to secure the observance of Clause 20.1 by all Staff and all suppliers and sub-contractors employed by the Provider in the execution of the Framework Agreement.

1. PROVISION OF MANAGEMENT INFORMATION
   1. The Provider shall during the period commencing on the Commencement Date and expiring on the termination date of the last Call-Off Contract to terminate submit to the Authority the Management Information specified in paragraph 7.8 of the Shire Hall Catering Service Specification and/or paragraph 8.8 of the Schools Catering Service Specification in accordance with the provisions thereof.
   2. The Authority may share the Management Information supplied by the Provider with any Contracting School during the period commencing on the Commencement Date and expiring on the termination date of the last Call-Off Contract to terminate.
   3. The Authority may make changes to the Management Information which the Provider is required to supply and shall give the Provider at least one (1) month's written notice of any changes.
   4. The Provider shall as soon as reasonably practicable during the period commencing on the Commencement Date and expiring on the termination date of the last Call-Off Contract to terminate notify the Authority of any matters which arise in connection with the performance of a Call-Off Contract which have or are likely to have a negative effect on the Provider’s relationship with a Contracting School’s Headteacher.

1. RECORDS AND AUDIT ACCESS
   1. The Provider shall keep and maintain until six (6) yearsafter the termination date of the last Call-Off Contract to terminate, full and accurate records and accounts of the operation of this Framework Agreement including the Services provided under it, the Call-Off Contracts entered into with the Authority and/or Contracting Schools and the amounts paid under them.
   2. The Provider shall keep the records and accounts referred to in Clause 22.1 above in accordance with good accountancy practice.
   3. The Provider shall afford the Authority (or relevant Contracting School) and/or the Auditor such access to such records and accounts as may be required from time to time.
   4. The Provider shall during the period commencing on the Commencement Date and expiring on the termination date of the last Call-Off Contract to terminate provide to the Authority (or relevant Contracting School) and the Auditor such records and accounts (together with copies of the Provider's published accounts).
   5. The Authority shall use reasonable endeavours to ensure that the conduct of each Audit does not unreasonably disrupt the Provider or delay the provision of the Services pursuant to the Call-Off Contracts, save insofar as the Provider accepts and acknowledges that control over the conduct of Audits carried out by the Auditor is outside of the control of the Authority.
   6. Subject to the Authority's rights of confidentiality, the Provider shall on demand provide the Auditor with all reasonable co-operation and assistance in relation to each Audit, including:
      1. all information requested by the Auditor within the scope of the Audit;
      2. reasonable access to sites controlled by the Provider and to equipment used in the provision of the Services; and
      3. access to the Staff.
   7. The Parties agree that they shall bear their own respective costs and expenses incurred in respect of compliance with their obligations under this Clause 22, unless the Audit reveals a Material Default by the Provider in which case the Provider shall reimburse the Authority for the Authority's reasonable costs incurred in relation to the Audit.
   8. The rights of the Authority under this clause 22 shall continue until the termination date of the last Call-Off Contract to terminate.

1. CONFIDENTIALITY

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

### treat the other Party's Confidential Information as confidential and safeguard it accordingly; and

### not disclose the other Party's Confidential Information to any other person without the owner's prior written consent.

## Clause 23.1 shall not apply to the extent that:

### such disclosure is a requirement of Law placed upon the party making the disclosure, including any requirements for disclosure under the FOIA or the Environmental Information Regulations pursuant to Clause 26.5 (Freedom of Information);

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

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

### such information was already in the public domain at the time of disclosure otherwise than by a breach of this Framework Agreement; or

### it is independently developed without access to the other party's Confidential Information.

## The Provider may only disclose the Authority’s Confidential Information to its Staff who are directly involved in the provision of the Services and who need to know the information, and shall ensure that such Staff are aware of and shall comply with these obligations as to confidentiality.

## The Provider shall not, and shall procure that its Staff do not, use any of the Authority’s Confidential Information received otherwise than for the purposes of this Framework Agreement.

## Nothing in this Framework Agreement shall prevent the Authority from disclosing the Provider's Confidential Information:

### to any Crown Body or any other Contracting Authority. All Crown Bodies or Contracting Authorities receiving such Confidential Information shall be entitled to further disclose the Confidential Information to other Crown Bodies or other Contracting Authorities on the basis that the information is confidential and is not to be disclosed to a third party which is not part of any Crown Body or any Contracting Authority;

### to any consultant, contractor or other person engaged by the Authority or any person conducting an Office of Government Commerce gateway review;

### for the purpose of the examination and certification of the Authority's accounts;

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

## The Authority shall use all reasonable endeavours to ensure that any government department, Contracting Authority, employee, third party or Sub-contractor to whom the Provider's Confidential Information is disclosed pursuant to Clause 23.5 is made aware of the Authority's obligations of confidentiality.

## Nothing in this Clause 23 shall prevent either Party from using any techniques, ideas or know-how gained during the performance of the Framework Agreement in the course of its normal business to the extent that this use does not result in a disclosure of the other party's Confidential Information or an infringement of Intellectual Property Rights.

1. DATA PROTECTION
   1. Both parties will comply with all applicable requirements of the Data Protection Legislation. This clause 18 is in addition to, and does not relieve, remove or replace, a party's obligations or rights under the Data Protection Legislation.
   2. The parties acknowledge that for the purposes of the Data Protection Legislation, the Authority is the Controller and the Provider is the Processor.
   3. Without prejudice to the generality of clause 18.1, the Authority will ensure that it has all necessary appropriate consents and notices in place to enable lawful transfer of the Personal Data to the Provider for the duration and purposes of this Framework Agreement.
   4. Without prejudice to the generality of clause 18.1, the Provider shall, in relation to any Personal Data processed in connection with the performance by the Provider of its obligations under this Framework Agreement:
      1. process that Personal Data only on the documented written instructions of the Authority unless the Provider is required by Domestic Law to otherwise process that Personal Data. Where the Provider is relying on Domestic Law as the basis for processing Personal Data, the Provider shall promptly notify the Authority of this before performing the processing required by the Domestic Law unless the Domestic Law prohibits the Provider from so notifying the Authority;
      2. ensure that it has in place appropriate technical and organisational measures, reviewed and approved by the Authority, to protect against unauthorised or unlawful processing of Personal Data and against accidental loss or destruction of, or damage to, Personal Data, appropriate to the harm that might result from the unauthorised or unlawful processing or accidental loss, destruction or damage and the nature of the data to be protected, having regard to the state of technological development and the cost of implementing any measures (those measures may include, where appropriate, pseudonymising and encrypting Personal Data, ensuring confidentiality, integrity, availability and resilience of its systems and services, ensuring that availability of and access to Personal Data can be restored in a timely manner after an incident, and regularly assessing and evaluating the effectiveness of the technical and organisational measures adopted by it).
      3. ensure that all personnel who have access to and/or process Personal Data are obliged to keep the Personal Data confidential; and
      4. not transfer any Personal Data outside of the UK unless the prior written consent of the Authority has been obtained and the following conditions are fulfilled:
         1. the Authority or the Provider has provided appropriate safeguards in relation to the transfer;
         2. the data subject has enforceable rights and effective legal remedies;
         3. the Provider complies with its obligations under the Data Protection Legislation by providing an adequate level of protection to any Personal Data that is transferred; and
         4. the Provider complies with reasonable instructions notified to it in advance by the Authority with respect to the processing of the Personal Data;
      5. assist the Authority, at the Authority's cost, in responding to any request from a Data Subject and in ensuring compliance with its obligations under the Data Protection Legislation with respect to security, breach notifications, impact assessments and consultations with supervisory authorities or regulators;
      6. notify the Authority without undue delay on becoming aware of a Personal Data Breach;
      7. at the written direction of the Authority, delete or return Personal Data and copies thereof to the Authority on termination of the agreement unless required by Domestic Law to store the Personal Data; and
      8. maintain complete and accurate records and information to demonstrate its compliance with this clause 18 and allow for audits by the Authority or the Authority's designated auditor and immediately inform the Authority if, in the opinion of the Provider, an instruction infringes the Data Protection Legislation.
   5. The Authority consents to the Provider appointing [●●●●●] as a third-party processor of Personal Data under this Framework Agreement. The Supplier confirms that it has entered or (as the case may be) will enter with the third-party processor into a written agreement substantially on that third party's standard terms of business OR incorporating terms which are substantially similar to those set out in this clause 18 and in either case which the Supplier confirms reflect and will continue to reflect the requirements of the Data Protection Legislation. As between the Council and the Supplier, the Supplier shall remain fully liable for all acts or omissions of any third-party processor appointed by it pursuant to this clause 18.
   6. Either party may, at any time on not less than 30 days' notice, revise this clause 18 by replacing it with any applicable controller to processor standard clauses or similar terms adopted by the Information Commissioner or forming part of an applicable certification scheme (which shall apply when replaced by attachment to this Framework Agreement).
   7. The Provider shall comply with the requirements set out in Schedule 8 (Security Management).
2. PCI-DSS Payment Handling Security
   1. The Contractor shall and shall procure that each Subcontractor ensure that Cardholder Data is protected during the term of any Call-Off Contract.
   2. In relation to the Contractor Services systems and software, the Supplier warrants that:
      1. it has, and that each Subcontractor has, obtained PCI-DSS compliance with regard to the security of Cardholder Data; and
      2. it shall comply with, and maintain, such PCI-DSS compliance requirements during the term of any Call-Off Contract.
   3. The Contractor shall and shall procure that each Subcontractor provide the Council with a relevant AOC.
   4. In the event that the Contractor and/or each Subcontractor does not have or is unable to provide a relevant AOC the Contractor shall provide the Authority with the Payment Handling Questionnaire.
   5. In relation to the security of the Contractor’s Cardholder Data handling systems, the Contractor:
      1. warrants that the information in the AOC or Payment Handling Questionnaire (Contractor’s network and information security) is up to date and accurate and that it will update the Authority immediately if there are any changes to such information which would affect the Contractor and/or Subcontractor's PCI-DSS compliance;
      2. shall notify the Authority immediately of any proposed changes to the Services which could affect the security of Cardholder Data or the Contractor and/or Subcontractor's PCI-DSS compliance.
      3. shall notify the Authority immediately if it becomes aware of any security incident affecting its network and information systems that could potentially affect the Authority’s PCI-DSS compliance, and respond without delay to all queries and requests for information from the Authority about any security incident, whether discovered by the Contractor or the Authority, in particular noting the extent of the Authority's reporting obligations under the PCI-DSS and that the Authority may be required to comply with statutory or other regulatory timescales;
      4. shall use its best endeavours to ensure business continuity for the Authority at all times; and
      5. agrees to co-operate with the Authority in all aspects of its compliance with the PCI-DSS including, without limitation, any requests for information if there is a suspected or actual security incident and any inspections by regulators/auditors.
   6. The Contractor shall ensure that, at all times, its maintenance and operating procedures are sufficient to ensure that the Services are provided in accordance with the PCI-DSS.
   7. The Contractor shall allow for audits of its Cardholder Data handling security activity by the Authority or the Authority’s designated auditor.
   8. Before allowing any Subcontractor to provide any services which involves the storage, processing, transmission of Cardholder Data or provide services that could impact the security of Cardholder Data related to this Framework Agreement or any Call-Off Contract, the Contractor must:
      1. notify the Authority in writing of the intended Subcontractor;
      2. obtain the written consent of the Authority;
      3. enter into a written agreement with the Subcontractor which give effect to the terms set out in this Clause 25 such that they apply to the Subcontractor; and
      4. provide the Authority with such information regarding the Subcontractor processor as the Authority may reasonably require.
   9. The Contractor shall remain fully liable for all acts or omissions of any Subcontractor.
   10. The provisions of this clause shall apply during the continuance of the Framework Agreement and any Call-Off Contract and indefinitely after its expiry or termination.
3. FREEDOM OF INFORMATION

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

## The Provider shall and shall procure that its Sub-contractors shall:

### transfer to the Authority 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;

### provide the Authority with a copy of all Information in its possession, or power in the form that the Authority requires within five Working Days (or such other period as the Authority may specify) of the Authority’s request; and

### provide all necessary assistance as reasonably requested by the Authority to enable the Authority to respond to the Request for Information within the time for compliance set out in section 10 of the FOIA or regulation 5 of the Environmental Information Regulations.

## The Authority shall be responsible for determining in its absolute discretion and notwithstanding any other provision in this Framework 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.

## In no event shall the Authority respond directly to a Request for Information unless expressly authorised to do so by the Authority.

## The Provider acknowledges that (notwithstanding the provisions of Clause 26.2) the Authority may, acting in accordance with the Secretary of State for 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 Provider or the Services:

### in certain circumstances without consulting the Provider; or

### following consultation with the Provider and having taken their views into account;

### provided always that where 26.2 applies the Authority shall, in accordance with any recommendations of the Code, take reasonable steps, where appropriate, to give the Provider advanced notice, or failing that, to draw the disclosure to the Provider’s attention after any such disclosure.

1. PUBLICITY
   1. Unless otherwise directed by the Authority, the Provider shall not make any press announcements or publicise this Framework Agreement in any way without the Authority's prior written consent.
   2. The Authority shall be entitled to publicise this Framework Agreement in accordance with any legal obligation upon the Authority, including any examination of this Framework Agreement by the Auditor or otherwise.
   3. The Provider shall not do anything which may damage the reputation of the Authority or bring the Authority into disrepute.

1. Termination

Termination on Default

* 1. The Authority may terminate the Framework Agreement by serving written notice on the Provider with effect from the date specified in such notice:
     1. where the Provider commits a Material Default and:
        1. the Provider has not remedied the Material Default to the satisfaction of the Authority within twenty (20) Working Days, or such other period as may be specified by the Authority, after issue of a written notice specifying the Material Default and requesting it to be remedied; or
        2. the Material Default is not, in the reasonable opinion of the Authority, capable of remedy; or
     2. where the Authority or any Contracting School terminates a Call-Off Contract awarded to the Provider under this Framework Agreement as a consequence of default by the Provider.
  2. The Contractor acknowledges and agrees that (without limitation) any Default which leads to the occurrence of food poisoning incidents at five (5) or more Contracting Schools concurrently shall constitute a Material Default that is not capable of remedy for the purposes of this Clause 28.

Termination on Financial Standing

* 1. The Authority may terminate the Framework Agreement by serving notice on the Provider in writing with effect from the date specified in such notice where (in the reasonable opinion of the Authority), there is a material detrimental change in the financial standing and/or the credit rating of the Provider which adversely impacts on the Provider's ability to supply Services under this Framework Agreement.

Termination on Insolvency and Change of Control

* 1. The Authority may terminate this Framework Agreement with immediate effect by notice in writing where the Provider is a company and in respect of the Provider:
     1. a proposal is made for a voluntary arrangement within Part I of the Insolvency Act 1986 or of any other composition scheme or arrangement with, or assignment for the benefit of, its creditors; or
     2. a shareholders' meeting is convened for the purpose of considering a resolution that it be wound up or a resolution for its winding-up is passed (other than as part of, and exclusively for the purpose of, a bona fide reconstruction or amalgamation); or
     3. a petition is presented for its winding up (which is not dismissed within 14 days of its service) or an application is made for the appointment of a provisional liquidator or a creditors' meeting is convened pursuant to Section 98 of the Insolvency Act 1986; or
     4. a receiver, administrative receiver or similar officer is appointed over the whole or any part of its business or assets; or
     5. an application order is made either for the appointment of an administrator or for an administration order, an administrator is appointed, or notice of intention to appoint an administrator is given; or
     6. it is or becomes insolvent within the meaning of Section 123 of the Insolvency Act 1986; or
     7. being a "small company" within the meaning of Section 381 of the Companies Act 2006, a moratorium comes into force pursuant to Schedule A1 of the Insolvency Act 1986; or
     8. any event similar to those listed in Clause 28.1.1 to Clause 28.4.7 occurs under the law of any other jurisdiction.
  2. The Provider shall notify the Authority immediately if the Provider undergoes a change of control within the meaning of Section 416 of the Income and Corporation Taxes Act 1988 ("**Change of Control**"). The Authority may terminate the Framework Agreement by giving notice in writing to the Provider with immediate effect within six (6) Months of:
     1. being notified that a Change of Control has occurred; or
     2. where no notification has been made, the date that the Authority becomes aware of the Change of Control;

but shall not be permitted to terminate where an Approval was granted prior to the Change of Control.

1. CONSEQUENCES OF TERMINATION AND EXPIRY
   1. Notwithstanding the service of a notice to terminate the Framework Agreement, the Provider shall continue to fulfil its obligations under the Framework Agreement until the date of expiry or termination of the Framework Agreement or such other date as required under this Clause 29.
   2. Termination or expiry of the Framework Agreement shall not cause any Call-Off Contracts to terminate automatically. For the avoidance of doubt, all Call-Off Contracts shall remain in force unless and until they are terminated or expire in accordance with their own terms.
   3. Within thirty (30) Working Days of the date of termination or expiry of the Framework Agreement, the Provider shall return to the Authority any data and Confidential Information belonging to the Authority in the Provider's possession, power or control, either in its then current format or in a format nominated by the Authority (in which event the Authority will reimburse the Provider's reasonable data conversion expenses), together with all training manuals and other related documentation, and any other information and all copies thereof owned by the Authority, save that it may keep one copy of any such data or information for a period of up to twelve (12) Months to comply with its obligations under the Framework Agreement, or such period as is necessary for such compliance.
   4. The Authority shall be entitled to require access to data or information arising from the provision of the Services from the Provider until the latest of:
      1. the expiry of a period of twelve (12) Months following termination or expiry of the Framework Agreement; or
      2. the expiry of a period of twelve (12) Months following the date on which the Provider ceases to provide Services under any Call-Off Contract.
   5. Termination or expiry of this Framework Agreement shall be without prejudice to any rights, remedies or obligations of either Party accrued under this Framework Agreement prior to termination or expiry.
   6. The provisions of Clauses 13, 14, 15, 16, 22, 23, 24, 30, 31 and 42 shall survive the termination or expiry of the Framework Agreement, together with any other provision which is either expressed to or by implication is intended to survive termination.

1. LIABILITY
   1. Neither Party excludes or limits its liability for:
      1. death or personal injury caused by its negligence, or that of its Staff;
      2. fraud or fraudulent misrepresentation by it or its Staff; or
      3. breach of any obligations as to title implied by Section 12 of the Sale of Goods Act 1979 or section 2 of the Supply of Goods and Services Act 1982.
   2. Subject to Clause 30.1 each Party's total aggregate liability in connection with this Framework Agreement in each twelve (12) Month period during the period commencing on the Commencement Date and expiring on the termination date of the last Call-Off Contract to terminate (whether in contract, tort including negligence, breach of statutory duty or howsoever arising) shall be limited to ten million pounds (£10 million). For the avoidance of doubt, the Parties acknowledge and agree that this Clause 30 shall not limit either Party's liability under any Call-Off Contract and that each Party's liability in relation to a Call-Off Contract shall be as set out in the Call-Off Contract.
   3. Subject to Clause 30.2 the Provider shall indemnify and keep indemnified the Authority in full from and against all claims, proceedings, actions, damages, legal costs, expenses and any other liabilities whatsoever arising out of, in respect of or in connection with the Framework Agreement including in respect of any death or personal injury, loss of or damage to property, financial loss arising from any advice given or omitted to be given by the Provider, or any other loss which is caused directly or indirectly by any act or omission of the Provider. This Clause shall not apply to the extent that the Provider is able to demonstrate that such death or personal injury, or loss or damage was not caused or contributed to by its negligence or Default, or the negligence or Default of its Staff or by any circumstances within its or their control.

1. INSURANCE
   1. The Provider shall effect and maintain policies of insurance to provide a level of cover sufficient for all risks which may be incurred by the Provider under this Framework Agreement including death or personal injury, or loss of or damage to property.
   2. Without prejudice to Clause 31.1, the Provider shall effect and maintain the following insurances with a reputable insurance company:
      1. public liability insurance of at least ten million pounds (£10 million) in respect of each and every claim that may arise from the Contractor's performance of this Framework Agreement for the duration of the Framework Agreement and for a minimum of six (6) years following the expiration or earlier termination of the Framework Agreement; and
      2. employers' liability insurance with a minimum limit of indemnity as required by law from time to time.
   3. Any excess or deductibles under such insurance (referred to in Clause 31.1 and Clause 31.2) shall be the sole and exclusive responsibility of the Provider.
   4. The terms of any insurance or the amount of cover shall not relieve the Provider of any liabilities arising under the Framework Agreement.
   5. The Provider shall produce to the Authority, on request, copies of all insurance policies referred to in this Clause or a broker's verification of insurance to demonstrate that the appropriate cover is in place, together with receipts or other evidence of payment of the latest premiums due under those policies.
   6. If, for whatever reason, the Provider fails to give effect to and maintain the insurances required by the Framework Agreement then the Authority may make alternative arrangements to protect its interests and may recover the costs of such arrangements from the Provider.
   7. The obligations of the Provider under this clause 31 shall continue until the termination date of the last Call-Off Contract to terminate.

1. TRANSFER AND SUB-CONTRACTING
   1. The Framework Agreement is personal to the Provider and the Provider shall not assign, novate or otherwise dispose of the Framework Agreement or any part thereof without the previous consent in writing of the Authority. The Provider shall not be entitled to sub-contract any of its rights or obligations under this Framework Agreement.
   2. The Authority shall be entitled to novate the Framework Agreement to any other body (including any private sector body) which substantially performs any of the functions that previously had been performed by the Authority provided that such assignment, novation or disposals shall not increase the burden of the Provider's obligations under the Framework Agreement.

1. Variations TO THE FRAMEWORK AGREEMENT
   1. No variation or amendment of the Framework Agreement or oral promise or commitment related to it shall be valid unless committed to writing and signed by or on behalf of the Authority and the Provider.

1. RIGHTS OF THIRD PARTIES
   1. Save as provided in Clauses 9, 12 and 13.2 and the rights specified in the Framework Agreement for the benefit of the Authority and/or Contracting Schools, a person who is not party to this Framework Agreement ("**Third Party**") has no right to enforce any term of this Framework Agreement but this does not affect any right or remedy of any person which exists or is available otherwise than pursuant to that Act. If the Parties rescind this Framework Agreement or vary any of its terms in accordance with the relevant provisions of this Framework Agreement, such rescission or variation will not require the consent of any Third Party.

1. SEVERABILITY
   1. If any provision of the Framework Agreement is held invalid, illegal or unenforceable for any reason, such provision shall be severed and the remainder of the provisions hereof shall continue in full force and effect as if the Framework Agreement had been executed with the invalid provision eliminated.
   2. In the event of a holding of invalidity so fundamental as to prevent the accomplishment of the purpose of the Framework Agreement, the Authority and the Provider shall immediately commence good faith negotiations to remedy such invalidity.

1. CUMULATIVE remedies
   1. Except as otherwise expressly provided by the Framework Agreement, all remedies available to either Party for breach of the Framework Agreement are cumulative and may be exercised concurrently or separately, and the exercise of any one remedy shall not be deemed an election of such remedy to the exclusion of other remedies.

1. WAIVER
   1. The failure of either Party to insist upon strict performance of any provision of the Framework Agreement, or the failure of either Party to exercise, or any delay in exercising, any right or remedy shall not constitute a waiver of that right or remedy and shall not cause a diminution of the obligations established by the Framework Agreement.
   2. No waiver shall be effective unless it is expressly stated to be a waiver and communicated to the other Party in writing in accordance with Clause 39.
   3. A waiver of any right or remedy arising from a breach of the Framework Agreement shall not constitute a waiver of any right or remedy arising from any other or subsequent breach of the Framework Agreement.

1. ENTIRE AGREEMENT
   1. This Framework Agreement constitutes the entire agreement and understanding between the Parties in respect of the matters dealt within it and supersedes, cancels or nullifies any previous agreement between the Parties in relation to such matters.
   2. Each of the Parties acknowledges and agrees that in entering into this Framework Agreement it does not rely on, and shall have no remedy in respect of, any statement, representation, warranty or undertaking (whether negligently or innocently made) other than as expressly set out in this Framework Agreement. The only remedy available to either Party of such statements, representation, warranty or understanding shall be for breach of contract under the terms of this Framework Agreement.
   3. Nothing in this Clause 38 shall operate to exclude Fraud or fraudulent misrepresentation.

1. NOTICES
   1. Except as otherwise expressly provided within this Framework Agreement, no notice or other communication from one Party to the other shall have any validity under the Framework Agreement unless made in writing by or on behalf of the Party sending the communication.
   2. Any notice or other communication which is to be given by either Party to the other shall be given by letter (sent by hand, post, registered post or by the recorded delivery service), or electronic mail (confirmed by letter). Such letters shall be addressed to the other Party in the manner referred to in Clause 39.3. Provided the relevant communication is not returned as undelivered, the notice or communication shall be deemed to have been given two (2) Working Days after the day on which the letter was posted, or four (4) hours, in the case of electronic mail or sooner where the other Party acknowledges receipt of such letters or item of electronic mail.
   3. For the purposes of Clause 39.2, the address of each Party shall be:

For the Authority:

Address:

[●●●●●]

Gloucestershire County Council

Shire Hall

Westgate Street

Gloucester

GL1 2TP

For the attention of: Stephen Haywood, Support Services Officer

Tel: 01452 427105

Email: [stephen.haywood@gloucestershire.gov.uk](mailto:stephen.haywood@gloucestershire.gov.uk)

* + 1. For the Provider:

[●●●●●]

Address: [●●●●●]

For the attention of: [●●●●●]

Tel: [●●●●●]

Email: [●●●●●]

* 1. Either Party may change its address for service by serving a notice in accordance with this Clause.

1. COMPLAINTS HANDLING AND RESOLUTION
   1. The Provider shall notify the Authority of any Complaint made by any Contracting School within two (2) Working Days of becoming aware of that Complaint and such notice shall contain full details of the Provider's plans to resolve such Complaint.
   2. Without prejudice to any rights and remedies that a complainant may have at Law, including under this Framework Agreement or a Call-Off Contract, and without prejudice to any obligation of the Provider to take remedial action under the provisions of the Framework Agreement or a Call-Off Contract, the Provider shall use its best endeavours to resolve the Complaint within ten (10) Working Days and in so doing, shall deal with the Complaint fully, expeditiously and fairly.

1. DISPUTE RESOLUTION
   1. The Parties shall attempt in good faith to negotiate a settlement to any dispute between them arising out of or in connection with the Framework Agreement within twenty (20) Working Days of either Party notifying the other of the dispute and such efforts shall involve the escalation of the dispute to those persons identified in Clause 39 above.
   2. Nothing in this dispute resolution procedure shall prevent the Parties from seeking from any court of competent jurisdiction an interim order restraining the other Party from doing any act or compelling the other Party to do any act.
   3. If the dispute cannot be resolved by the Parties pursuant to Clause 41.1 the Parties shall refer it to mediation pursuant to the procedure set out in Clause 41.5 unless:
      1. the Authority considers that the dispute is not suitable for resolution by mediation; or
      2. the Provider does not agree to mediation.
   4. The obligations of the Parties under the Framework Agreement shall not be suspended, cease or be delayed by the reference of a dispute to mediation and the Provider and its employees, personnel and associates shall comply fully with the requirements of the Framework Agreement at all times.
   5. The procedure for mediation and consequential provisions relating to mediation are as follows:
      1. a neutral adviser or mediator ("**the Mediator**") shall be chosen by agreement between the Parties or, if they are unable to agree upon a Mediator within ten (10) Working Days after a request by one Party to the other to appoint a Mediator or if the Mediator agreed upon is unable or unwilling to act, either Party shall within ten (10) Working Days from the date of the proposal to appoint a Mediator or within ten (10) Working Days of notice to either Party that he is unable or unwilling to act, apply to the Centre for Effective Dispute Resolution to appoint a Mediator;
      2. the Parties shall within ten (10) Working Days of the appointment of the Mediator meet with him in order to agree a programme for the exchange of all relevant information and the structure to be adopted for negotiations to be held. If considered appropriate, the Parties may at any stage seek assistance from the Centre for Effective Dispute to provide guidance on a suitable procedure;
      3. unless otherwise agreed, all negotiations connected with the dispute and any settlement agreement relating to it shall be conducted in confidence and without prejudice to the rights of the Parties in any future proceedings;
      4. if the Parties reach agreement on the resolution of the dispute, the agreement shall be reduced to writing and shall be binding on the Parties once it is signed by their duly authorised representatives;
      5. failing agreement, either of the Parties may invite the Mediator to provide a non-binding but informative opinion in writing. Such an opinion shall be provided on a without prejudice basis and shall not be used in evidence in any proceedings relating to this Framework Agreement without the prior written consent of both Parties; and
      6. if the Parties fail to reach agreement in the structured negotiations within sixty (60) Working Days of the Mediator being appointed, or such longer period as may be agreed by the Parties, then any dispute or difference between them may be referred to the courts.

1. LAW AND JURISDICTION

Subject to the provisions of Clause 40 and Clause 41, the Authority and the Provider accept the exclusive jurisdiction of the English courts and agree that the Framework Agreement is to be governed by and construed according to English Law.

**AS WITNESS WHEREOF** this FrameworkAgreement has been signed on behalf of the Parties the day and year first before written.

Signed on behalf of

[●●●●●]

**SCHEDULE 1**

Specifications for Services

***[NOTE: To be cut and pasted from the Invitation to Tender.]***

**APPENDIX 1 (to the Specifications)**

Key Performance Indicators

***[NOTE: To be cut and pasted from the key performance indicators set out in Appendix 8 of the Invitation to Tender.]***

**SCHEDULE 2**

1. Order Form

Framework Agreement

1. relating to the supply of [school] [Authorities] catering services

**FROM:**

|  |  |
| --- | --- |
| **[School] [Authority]:** | **[The Governing Body of [●insert name of school●]** |
| **Service Address:** |  |
| **Bulk Invoice Address:** |  |
| **Contract Manager:**  **Name:**  **Address:**  **Telephone number:**  **Email:** |  |
| **Order Number:**  *To be quoted on all correspondence relating to this Order* |  |
| **Order Date:** |  |

**TO:**

|  |  |
| --- | --- |
| **Provider:** |  |
| **For the attention of:**  **E-mail:**  **Telephone number:** |  |
| **Address:** |  |

|  |  |  |  |
| --- | --- | --- | --- |
| **1** | **SERVICES REQUIRED:** | | |
|  | [For the purposes of the Contract the Services Location will act as a:*[tick box as appropriate]*  (a) Kitchen: 🞏  (b) Production Kitchen: 🞏  (c) Dining Centre: 🞏]  In the performance of its obligations in respect of the Services the Provider shall:  [●●●●●] | | |
| **2** | **COMMENCEMENT DATE:** | **[●●●●●] 2022** | |
| **3** | **PRICE:** | | |
|  | [Free Meal Price (excluding VAT):] | | [£●●●●●] |
| [Universal Infant Free School Meal Price (excluding VAT):] | | [£●●●●●] |
| [Paid Pupil Meal Price (excluding VAT):] | | [£●●●●●] |
| [Duty Meal Price (excluding VAT):] | | [£●●●●●] |
| [Staff/Visitor Meal (excluding VAT):] | | [£●●●●●] |
|  | [Contract Price] | | [£●●●●●] |
| **4** | **EQUIPMENT** | | |
| **4.1** | **Light Equipment:** | | |
|  | The Light Equipment described [●●●●●]. | | |
| **4.2** | **Heavy Equipment:** | | |
|  | The Heavy Equipment described [●●●●●]. | | |
| **5.** | **Performance Standards:** | | |
|  | The Provider shall comply with the following performance standards in its performance of the Services:  The performance standards set out in Appendix 1 of Schedule 1 to the Framework Agreement entered into by the Provider and Gloucestershire County Council on [●●●●●] 2022 [a copy of which is annexed hereto]. | | |
| **6** | **SERVICES LOCATION:** | | |
| **6.1** | The Services Location identified [●●●●●] | | |
| **6.2** | The Work Areas identified [●●●●●] | | |
| **7** | **QUALITY STANDARDS:** | | |
|  | The Provider shall comply with the following quality standards in its performance of the Services:  The quality standards set out in Appendix 1 of Schedule 1 to the Framework Agreement entered into by the Provider and Gloucestershire County Council on [●●●●●] 2022 [a copy of which is annexed hereto]. | | |
| **8** | **POLICIES:** | | |
| **8.1** | Gloucestershire County Council’s Health and Safety Policy - a copy of which has been issued by Gloucestershire County Council or the School to the Provider prior to execution of this Order and receipt whereof the Provider hereby acknowledges**.** | | |
| **8.2** | The Standard Security Requirements relating to the Services Location - are a copy of which has been issued by Gloucestershire County Council or the School to the Provider prior to execution of this Order and receipt whereof the Provider hereby acknowledges. | | |
| **8.3** | Gloucestershire County Council policies relating to special or protective clothing and footwear - a copy of which has been issued by Gloucestershire County Council or the School to the Provider prior to execution of this Order and receipt whereof the Provider hereby acknowledges. | | |
| **8.4** | Gloucestershire County Council’s environmental policy - a copy of which has been issued by Gloucestershire County Council or the School to the Provider prior to execution of this Order and receipt whereof the Provider hereby acknowledges. | | |

|  |  |
| --- | --- |
| **9.1** | **CONFIDENTIAL INFORMATION**  **The following information shall be deemed Commercially Sensitive Information or Confidential Information:** |
|  |  |
| 9.2 | **Duration that the information shall be deemed Commercially Sensitive Information or Confidential Information:** |
|  |  |

**By signing and returning this Order Form the Provider agrees** to enter a legally binding contract with the Governing Body of **[●●●●●]** to provide it with the Services specified in this Order Form incorporating the rights and obligations in the Call-Off Terms and Conditions [for Schools] [for Shire Hall] set out in the Framework Agreement entered into by the Provider and Gloucestershire County Council on [●●●●●] 2022.

|  |  |
| --- | --- |
| For and on behalf of the Provider: [●●●●●] | |
| Name and Title: |  |
| Signature: |  |
| Date: |  |

|  |  |
| --- | --- |
| For and on behalf of the Governing Body of **[●insert name of school●]**: | |
| Name and Title: |  |
| Signature: |  |
| Date: |  |

SCHEDULE 3

Pricing Matrices

***[To be populated post-award using the Pricing Matrices submitted in the relevant Provider’s tender]***

SCHEDULE 4

Call-Off Terms and Conditions

***[NOTE: Schedule 4A and Appendices 1 and 2 thereof and Schedule 4B are attached as a separate document.]***

**SCHEDULE 5**

Invitation to Tender

***[Intentionally blank - to be populated post award]***

**SCHEDULE 6**

Tender

***[Intentionally blank - to be populated post award]***

**SCHEDULE 7**

Social Value Plan

**Associated definitions:**

In this Schedule 7, the following words shall have the following meanings:

|  |  |
| --- | --- |
| **"Delivery Plan"** | means the approved social value delivery plan submitted by the Provider to the SVP and is annexed hereto at Annex A to this Schedule 7; |
| **“SV Monitoring Information”** | means the quarterly monitoring information and associated evidence to demonstrate compliance with and performance of the specific targets set out in the Delivery Plan; |
| **"SVP"** | means the electronic social value portal provided by Social Value Portal Ltd and accessible from to time to at: <https://socialvalueportal.com/> |
| **"Social Value"** | the social, economic or environmental benefits set out in the Tender; |
| **“Social Value Management Fee”** | means the sum calculated in accordance with paragraph 2 of this Schedule 7. |

1. **The Delivery Plan**
   1. In delivering the Services to the Authority and any Contracting School, the Provider shall:
      1. use all reasonable efforts to deliver the Services in a manner which achieves the targets set out in the Delivery Plan;
      2. effect and maintain its registration with the SVP;
      3. pay the annual Social Value Management Fee direct to SVP upon the receipt an invoice therefor;
      4. comply with the specific monitoring requirements set out in Paragraph 3 of this Schedule 7.
   2. Throughout the Contract Period, the Provider shall work with the Authority to identify and mitigate any risks to the successful deliver of the Delivery Plan.
   3. For the avoidance of doubt, the Buyer shall at no time be liable for the payment of the Social Value Management Fee to the SVP and accordingly shall construe non-payment of the Social Value Management Fee as amounting to a Default under this Framework Agreement.
2. **Calculation of the Social Value Management Fee**
   1. Subject to Paragraph 2.2, the Social Value Management Fee shall be the sum of 0.2% of all charges in respect of each and every Call-Off Contract.
   2. The annual Social Value Management Fee shall at no time during the Framework Term exceed the sum of seven thousand five hundred Pounds (£7,500.00) or fall below the sum of seven hundred and fifty Pounds (£750.00).
3. **Monitoring Information**
   1. In accordance with any reasonable instructions supplied by the SVP, the Provider shall upload the SV Monitoring Information on a quarterly basis to the SVP to demonstrate performance of the Delivery Plan.
   2. Upon written request, the Provider shall provide the Authority with a copy of any information (together with any relevant supporting evidence) supplied to the SVP in accordance with Paragraph 3.1.
   3. The requirement to supply the SV Monitoring Information shall be in addition to the monitoring provisions set out in Clause 15.

**Schedule 7 – Annex A**

**Social Value Delivery Plan**

**SCHEDULE 8**

Security Management

* + - 1. The Provider shall at all times throughout the Framework Term provide a level of security which:

is in accordance with Law and this Agreement;

as a minimum demonstrates Good Industry Practice;

meets any specific security threats of immediate relevance to the Services and/or Council Data;

complies with the security requirements as set out in Schedule 1 (Services Specification);

* + - 1. The Supplier shall observe and comply with the provisions of the Information Security and Handling (Supplier Requirements) Policy throughout the Contract Term.

**APPENDIX 1 (to Schedule 8)**

Council Security Standards Forms

1. *[DRAFTING NOTE: GCC’s Council Security Standards Form (*incorporating, *inter alia*, the Council’s “Cyber Essentials Equivalency Security Standards Form”; “ISO 27001 Equivalency Security Standards Form”; and (as appropriate) “PCI-DSS Equivalency Security Standards Form”*), once completed by the Supplier and verified by the Council, to be inserted here, together with all clarification questions raised by the council and responses thereto and accompanying certificates, verifications etc]*
2. * 1. (TO SCHEDULE 8)

Baseline Security Standards Form (Hosted Software Services)

1. *[DRAFTING NOTE: GCC’s Baseline Security Standards Form (Hosted Software Services), once completed by the Contractor and verified by the Authority, to be inserted here, together with all clarification questions raised by the council and responses thereto and accompanying certificates, verifications etc]* 
   * 1. (to Schedule 8)

Baseline Security Standards Form (People Services)

1. *[DRAFTING NOTE: GCC’s Baseline Security Standards Form (People Services), once completed by the Contractor and verified by the Authority, to be inserted here, together with all clarification questions raised by the council and responses thereto and accompanying certificates, verifications etc]*

**SCHEDULE 9 – PCI DSS Payment Handling**

The Contractor’s AOC or Payment Handling Questionnaire is appended hereto.