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**Section 3**

**Guidance and Response Document**

**for Final Tender**

**For Southwark Open Access Drop-in Service**

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1. **SUBMISSION CHECKLIST**

Tenderers should read all the documents forming this Invitation to Tender carefully. The table below provides details of all the documents included in this pack which must be completed, signed and included in the Tenderers Final submission:

|  |  |  |  |
| --- | --- | --- | --- |
| **Action Point** | **Action** | **Document Reference** | **Completed, Signed and Included** |
| 1 a. | **Form of Tender** - completed and signed |  |  |
| b. | **Negotiation Protocol** - completed and signed |  |  |
| c. | **Certificate of Non-Collusion, Non-Canvassing Certificate and Conflict of Interest Certificate** - completed and signed |  |  |
| d. | **Offences Certificate** - completed and signed |  |  |
| 2. | **Method Statements/Delivery Proposals** |  |  |
| 3. | **Price Schedule/Financial Implications Responses** |  |  |
| 4. | **Parent Company Guarantee and Bond** (where required)  - completed and signed |  |  |
| 5. | **Organisational information**  Tenderers must confirm that all the details they provided in the SQ are still valid. If any information provided in the SQ has changed Tenderers are obliged to provide the Council with details of these changes (including copies of accounts which have been published, details of any changes to ownership and changes to any other information) ) in Part 5 of this document.  In the event that the Council becomes aware that a Tenderer does not qualify under the minimum requirements set out in the SQ, as a result of these amendments, then that Tenderer shall be disqualified and shall not be considered further. |  |  |

1. **Guidance and Instructions FOR final TENDER** 
   1. The quality and price evaluation process requires Tenderers to produce a response to each of the questions listed in Parts 3 and 4 of this document, and; if any information has changed since the SQ was submitted, to provide details of this in Part 5. These responses relate to the Service Specification for the Southwark Open Access Drop-in Service the Council is seeking to procure in line with the Conditions of Contract (see Section 4, Part 1).
   2. Tenderers must ensure every response incorporates the aims, vision and outcomes for this Project as detailed in Service Specification and the Conditions of Contract (Section 4) and other documentation in this Tender Pack.
   3. Tenderers must ensure that they respond to all questions fully. Tenderers should not assume that the Council knows their company and/or their capabilities. Evaluation will be based on what is written in the submission.
   4. Some questions are made up of several parts. Tenderers must respond to each part of the question in full.
   5. Tenderers must ensure that they provide in their proposal examples of their knowledge and skills, using examples where appropriate. Tenderers need to provide enough information for the evaluators to judge their suitability to provide the contract for Southwark Open Access Drop-in Service.
   6. Once Tenderers have completed all questions, they must read through them again to check that the answers are accurate and that they have answered each question as fully as possible. It is suggested that Tenderers use the list of questions as a reference, ticking off each topic as they read through their answers, which will help ensure all questions are answered. Please note that some questions include specific areas that Tenderers should address in their answers and Tenderers shall be evaluated on this basis.
   7. Please contact the Council through ProContract3, the Council’s e-procurement portal, to clarify any points that are unclear as detailed in Section 1 Invitation to Tender.
2. **METHOD STATEMENT Response/DELIVERY PROPOSALS (60%)**

**INTRODUCTION**

1. Tenderers are required to submit method statements demonstrating how specific elements of the service, as defined in the Service Specification and Terms and Conditions, will be delivered.
2. Tenderers are required to submit a response to all questions using this response template. Failure to do this may result in a response not being taken into account.
3. Before submitting the method statements, Tenderers should ensure that they have:
   * 1. Answered all questions in the space provided within the Method Statement Response Template. If it is not clear to which method statement any part of their response relates to, a score may not be awarded.
     2. Ensured that they have answered questions within the maximum word limit allocation stated for each method statement.
     3. Enclosed all relevant documents and clearly referenced them to correspond with the method statement(s) and any sub-section(s) to which they relate.
4. Tenderers may make use of supporting documents (appendices to questions etc.) only where truly relevant and appropriate. Any appendix that the Commissioner judges to be essentially the continuation of a question response, and therefore a circumvention of the word limit, will be rejected and ignored.
5. Each method statement response will be scored between 0 and 5 as follows:

| **Assessment** | **Score** | **Basis of score** |
| --- | --- | --- |
| Cannot be scored | 0 points | No information provided or incapable of being taken forward either because the Tenderer does not demonstrate an understanding of our requirements as detailed in the tender documents and service specification or because the solution is incapable of meeting our requirements. |
| Unsatisfactory | 1 point | Although the Tenderer does demonstrate an understanding of our requirements as detailed in the tender documents and service specification there are some major risks or omissions in relation to the proposed solution to deliver the service and we would not be confident of our requirements being met. |
| Satisfactory | 2 points | A response which is capable of meeting our requirements as detailed in the tender documents and service specification but is unlikely to go beyond this. |
| Good | 3 points | A response which shows that the Tenderer demonstrates an understanding of our requirements as detailed in the tender documents and service specification has a credible methodology to deliver the service and could evolve into additional benefits. |
| Very good | 4 points | A response which shows that the Tenderer demonstrates an understanding of our requirements as detailed in the tender documents and service specification and has a credible methodology to deliver the service alongside a clear process and plan to deliver additional benefits and deliver value. |
| Excellent | 5 points | A response which shows how the service can comprehensively be taken to the next level in terms of exceeding our requirements as detailed in the tender documents and service specification and/or offering significant added value to the Council’s overall strategic requirements and objectives. |

**Table 1: Qualitative Evaluation Final Tender – Method Statements**

Tenderers method statement responses shall be evaluated in line with the following criteria:

|  |  |
| --- | --- |
| **Method Statement** | **Weighting** |
| 1. Service Delivery | 95% |
| 1. Social Value | 5% |
| **Total** | **100%** |

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
|  | **INITIAL TENDER**  **METHOD STATEMENT**  **WEIGHTING: 60 POINTS** | | | |
| **No.** | **Method Statement 1 – Service Delivery (95%)** | **Sub Weighting** | **Mini-mum score** | **Max Words** |
| **1a** | **Service Model**  Please describe the service model you intend to deliver to meet the service specification.  Your response to this question should also include, but not be limited to the following:   * What the service will deliver upon commencement. * How the service model will meet the needs of children, young people and their families in Southwark. * How you will provide a welcoming and encouraging environment for children and young to visit. * How the service will signpost to external services when appropriate e.g. CAMHS, substance misuse services. * How the model will be delivered in the identified property. | 30 | 3 | 1500 |
| **RESPONSE:** | | | | |
| **1b** | **Staffing**  Please describe how your proposed staffing model for your service model  Your response to this question should also include, but not be limited to the following:   * A staffing structure (omitted from the word count). * How staffing knowledge and skills will be continuously developed. * How volunteers, apprenticeships and peer support will be trained and supported. | 15 | 2 | 1000 |
| **RESPONSE:** | | | | |
| **1c** | **Performance Monitoring**  Please describe how you will monitor performance to ensure the service delivers upon the outcomes required in the specification.  Your response to this question should also include, but not be limited to the following:   * What measures you will use to effectively gauge the impact of the service. * How you will evidence the benefits of the service as a preventative measure against the potential cost of clinical interventions. * How performance will be monitored internally. * How performance will be reported to the Council. | 20 | 2 | 1000 |
| **RESPONSE:** | | | | |
| **1d** | **Test & Learn**  Please describe your approach to test and learn within the context of this service.  Your response to this question should also include, but not be limited to the following:   * Your proposed roadmap to expansion of the service over the life of the contract. * How you will gather the voice of children, young people and their families in the development of the service. * How you will ensure the voice of users and stakeholders influences the service on a continuous basis. * How you will feedback to those involved to show how their input has influenced the service delivery. * How you will link with stakeholders to ensure they are aware of the service and it’s benefits. | 30 | 3 | 1500 |
| **RESPONSE:** | | | | |
| **No.** | **Method Statement 2 – Social Value (5%)** | **Sub Weighting** | **Mini-mum score** | **Words** |
| **2a** | Please outline how your organisation will add social value throughout the duration of the contract, and how it is committed to pay its staff the London Living Wage (LLW).  As a minimum your response to this question should include, but not be limited to, the following:   * How you will raise the living standard of local residents? * How you will promote participation and citizen engagement? * How you will promote environmental sustainability? * Your organisations commitment to paying staff the LLW and how this can be evidenced? | 5 | 3 | 750 |
| **RESPONSE:** | | | | |

1. **price schedule Response (40%)**

Tenderers are required to fill in Appendix A Price Schedule. Tenderers will need to input a price for each of the years. The total price for delivering the Open Access Drop-in service will then be included in the price evaluation to obtain a score as per the scoring methodology outlined in Section 2 – Evaluation Methodology.

1. **SQ CONFIRMATION**

Tenderers must confirm that all the details they provided in the SQ are still valid in the Form of Tender included in this document. If any information provided in the SQ has changed Tenderers are obliged to provide the Council with details of these changes in the box below (including copies of accounts which have been published, details of any changes to ownership and changes to any other information).

|  |
| --- |
|  |

In the event that the Council becomes aware that a Tenderer does not qualify under the minimum requirements set out in the SQ as a result of these amendments, then that Tenderer shall be disqualified and shall not be considered further.

**FORM OF TENDER**

**To: The Mayor and Burgesses of the London Borough of Southwark**

**The Project: Southwark Open Access Drop-in Service**

**I/We** ............................................................................................……......................…………………………………………………………………………………………………………………………………….……………………………………………………...

**of:**..........................................……………........................……….........................................................…………………………………………………………………………......................…………….....................................................

Having satisfied ourselves as to all other matters relevant thereto, we confirm our response to participate in Negotiation with the Council and submit a Tender to deliver the project set out in the Invitation to Tender document (the Project).

Having examined and understood the Tender Documents issued in connection with the Project, I/We offer to carry out the Services in accordance with the Tender Documents for the rates specified in the Price Schedule. I/We confirm that we have submitted a tender for the Southwark Open access Drop-in Service.

In consideration of being invited to submit this tender, we agree that the offer set out in this Form of Tender is an unconditional and irrevocable offer by us which is capable of being accepted by you. Unless and until a formal binding agreement is executed, this Tender together with your written acceptance shall constitute a binding contract between us.

We confirm that, subject to the following paragraph, all negotiations remain "Subject to Contract" and that the Council's selection of us to proceed to the next stage of the Negotiation which may result in us being invited to submit a Final Tender and following evaluation to be appointed as the Preferred Tenderer will not constitute a binding agreement or contract between us until the form of Contract has been executed. We agree that the Contract shall comprise the finalisation and completion of the procurement exercise together with the completion of any other requisite documentation.

In the event that we are selected to proceed to the Negotiation and Final Tenders stage and if subsequently selected as a Preferred Tenderer, we agree to complete all necessary steps and execute all documentation that is agreed following submission of our Final Tender and following any clarification which may be required.

I/We agree that this Tender shall remain open to be accepted by the Council and will only be withdrawn in accordance with the Conditions of Tendering.

I/We warrant and undertake to you in the terms set out in the Conditions of Tendering.

I/We agree that the insertion by me/us of any conditions qualifying this Tender or any unauthorised alteration to the Tender documents will not bind the Council and may cause our Tender to be rejected.

I/We confirm that we accept and, if our Tender is accepted, agree to be bound by the Conditions of Contract (subject to any amendments in our Tender).

I/We confirm that any statement made in our SQ remains true and accurate in all material respects, save as specifically disclosed in our SQ submission.

In this Form of Tender words and expressions shall have the same meanings as are assigned to them in the Conditions of Contract.

I/We understand that you are not bound to accept the most economically advantageous or any tender you may receive.

Dated:.....................................................................................................................................

**Where the Tenderer is a company:**

|  |  |
| --- | --- |
| Signature (1) | (Position) |
| Signature (2) | (Position) |
| for and on behalf of Company Name and registered office address | |

**Where the Tenderer is a partnership:**

|  |  |
| --- | --- |
| Signature (1) | Authorised Partner |
| Signature (2) | Authorised Partner |
| for and on behalf of Partnership Name and address: | |

**Where the Tenderer is an individual:**

|  |
| --- |
| Signature |
| Name and address: |

Tenderers must confirm the bidding entity to whom the contract will be awarded to: ………………………………………………………………………………………………………

Tenderers must provide the Council with confirmation that they have reviewed and accepted every document included in this Tender pack by ticking every box in the table below next to each document they have received and providing a signature.

|  |  |  |  |
| --- | --- | --- | --- |
| **Doc.No** | **Document Description** | **Confirmation of Receipt**  (Tick each box below to confirm receipt of document) | **Confirmation Signature** |
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The Council reserves the right at any time at its absolute discretion:

* + 1. to enter into Negotiation with one or more Tenderers to obtain arrangements which best meet its requirements; and
    2. to accept or not accept any Final Tender submitted pursuant to the Invitation to Tender document; and
    3. not to award a Contract and to withdraw from, suspend or terminate the procurement procedure, any part of the procurement procedure and/or this Invitation to Tender document and to procure a Contract with a service provider by any alternative means within the legal requirements which the Council is subject to (including by way of undertaking a new procurement process);
    4. to reject the winning Tenderers offer and go to the next best Tenderer if the successful Tenderer makes any changes post award

Tenderers must provide a signature to confirm acknowledgment and acceptance of the contents of the Form of Tender and confirm that their final bid is final and no amendments shall be made to it post award, if successful.

Signature: …………………………………………………………………………..

**Negotiation Protocol**

1. **Background**
   1. London Borough of Southwark (**the Council**) is procuring a Provider to deliver an Open Access Drop-in Service (the **Project**). This procurement is being conducted under the Light Touch Regime (‘LTR’) is therefore subject to limited regulation and will be conducted in accordance with regulations 74 to 76 PCR 2015. This procurement relates to Health and Social Care services which are listed in Schedule 3 of the Public Contracts Regulations 2015 (PCR) 2015. Under this procedure, the Council shortlists applicants on the basis of financial and technical experience and invite them to participate in Negotiations and submit a Final Tender (the **Final Tender**). The Council shall enter into separate Negotiation meetings with each Tenderer to discuss that Tenderer's Initial Proposal (the **Negotiation**).
   2. You have been invited to participate in the Negotiation process and this Protocol will be used to govern the Negotiation meetings. In consideration of your organisation/consortium being invited to participate in Negotiation by the Council, your organisation/consortium and its advisers agree to adhere to this Protocol. This Protocol will need to be signed and returned to the Council, with the initial proposal submission via ProContract3, Southwark Council’s e-procurement portal.
   3. This document is not intended to replace or amend any of the Instructions to Tenderers included in the Invitation to Tender (the **ITT Document**).
   4. Tenderers should ensure that all members of their bid team, including their subcontractors and advisers are aware of the requirements for participation in the Negotiation phase set out in this Protocol. Tenderers should ensure that all members of their bid team understand the legal implications of the Negotiation Process and the fact that the Regulations prohibit changes once final bids have been submitted. All areas of concern should therefore be discussed as part of the Negotiation Process.
   5. The Council and the Tenderers agree that by participating in the Negotiation they commit to these rules in relation to the Negotiation meetings. The Tenderers acknowledge that a delay in closing the Negotiation phase will have serious resource implications for the Council. The Tenderers agree to work with the Council to ensure that the Negotiation is completed within the agreed timescales.
2. **Resources and meetings**
   1. Section 1 provides dates of the week Negotiation sessions are anticipated to commence. The Council has a challenging procurement timetable and wishes to optimise the benefits of the Negotiation Process by engaging in effective and productive Negotiation during this period.
   2. Tenderers are to note that all Negotiation meetings will be held at the offices of the Council at 160 Tooley Street. A meeting room will be available all day for the Tenderers' exclusive use in addition to the main meeting room to facilitate breakout sessions.
   3. Tenderers must ensure that the relevant attendees are available to attend Negotiation meetings on these dates. Attendees should be of sufficient seniority to make decisions and agree actions during the Negotiation meetings.
   4. The Tenderers and the Council agree to provide sufficient resources from the outset to ensure that this timetable will be met.
   5. Tenderers understand that all issues must be agreed and resolved during Negotiation. Once Negotiation has been formally closed by the Council, there will be no further opportunity for negotiation.
3. **Meeting agendas**
   1. The Council will issue invitations and submit agendas prior to the negotiation meetings to shortlisted Tenderers.
   2. The aim of the meeting agendas is to ensure that Tenderers understand what will be discussed at each meeting and to assist in planning attendees and resources. Where relevant there may also be specific instructions as to work that is required to be carried out by each Tenderer prior to a meeting. Tenderers must supply documents to be used in meetings at least 2 working days in advance.
   3. The agendas have been carefully planned to assist Tenderers in understanding how much time has been allocated to particular issues and the extent to which the Council will have expected Tenderers to have developed their bid.
   4. At the end of each Negotiation meeting, attendees will agree a list of key points agreed, action points and timescales for carrying out these actions.
4. **Meetings topics**
   1. Tenderers will be asked to attend Negotiation meetings prior to submitting their Final Tenders.
   2. Negotiation meetings will be held under the headings of ‘Southwark Open Access Drop-in Service NEGOTIATION’.
5. **Correspondence during the Negotiation**
   1. Throughout the Negotiation, any correspondence or submission of any documents must be submitted via ProContract3, Southwark Council’s e-procurement portal.
   2. Tenderers are referred to the Communications Protocol set out in Section 1 of the Invitation to Tender document, which shall apply to all stages of the Negotiation.
6. **Meeting attendees**
   1. Tenderers should notify the Council of the attendees for each Negotiation meeting at least 3 working days in advance of the meeting via ProContract3, Southwark Council’s e-procurement portal. This is to facilitate security arrangements and attendees may not be able to attend meetings if the Council has not been notified in advance of their arrival.
   2. The Council requests that Tenderers keep the number of attendees to a minimum i.e. only those who will be making an active contribution to the meeting, to ensure meetings are conducted efficiently and productively. The Council reserves the right to ask Tenderers to reduce the number of attendees if necessary.
   3. Tenderers must ensure that those attending the meetings are empowered on behalf of their organisation to participate in the Negotiation, including making and confirming all relevant decisions that may arise in the particular Negotiation meetings.
7. **Updates** 
   1. Throughout the Negotiation the Council may update Tenderers on new developments or additional information arising on the procurement exercise and the Project via Procontract3, Southwark Council’s e-Portal.
   2. If Tenderers request clarifications either during the Negotiation meetings or through ProContract3, Southwark Council’s e-procurement portal, the Council reserves the right to share the response with other Tenderers via ProContract3, its e-procurement portal.
8. **Confidentiality and FOIA**

8.1 Tenderers are to note and follow the Instructions to Tenderers set out in the Invitation to Tender document, particularly relating to confidentiality and the Freedom of Information Act 2000.

1. **Costs**
   1. The Tenderers shall bear their own costs in respect of their participation in the Negotiation Process, including the conduct of due diligence, preparation of documents and discussions all of which are “subject to Contract”.
   2. The Council accepts no liability for costs incurred by any Tenderer if the procurement process ceases or a Contract is not awarded.
2. **General**
   1. This Protocol shall come into force on the **28/10/2019** and shall continue in force for the duration of the Negotiation phase or until otherwise notified by the Council.
   2. The Council reserves the right to vary, add to, delete or suspend the operation of any of this Protocol by notice to the Tenderers.

10.3 Tenderers are asked to sign and return a copy of this Protocol to confirm their acceptance of and agreement to the terms of this Protocol, and return it to the Council no later than **25/10/2019**.

|  |  |
| --- | --- |
| Signed for and on behalf of  Dated | Signed for and on behalf of  Dated |

**CERTIFICATE OF NON-COLLUSION, NON-CANVASSING CERTIFICATE AND CONFLICT OF INTEREST CERTIFICATE**

**To The London Borough of Southwark (“the Authority”)**

**TENDER FOR Southwark Open Access Drop-in Service**

**Non-collusion:**

We agree that the essence of selective tendering is that the Authority shall receive bona fide competitive tenders from all firms tendering. In recognition of this principle, we certify that this is a bona fide tender, intended to be competitive, and that we have not fixed or adjusted the amount of the tender by or under or in accordance with any agreement or arrangement with any other person. We also certify that we have not done and we undertake that we will not do at any time before the returnable date for this tender any of the following acts:-

1. Communicate to a person other than the person calling for these tenders the amount, or approximate amount of the proposed tender.

2. Enter 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.

3. Offer or pay or give or agree to pay or give any sum or money 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 work any act or things of the sort described above.

4. ***[Choose one option and delete as appropriate]***

(a) We further confirm that we have not conducted behaviour that is anti-competitive or restrictive within the meaning of the Competition Act 1998 (or equivalent nation legislation in the Member State in which we are registered)

**OR**

4. (b) We confirm that we have been found by a court, tribunal or competent body to have been party or guilty of behaviour that is anti-competitive or restrictive within the meaning of the Competition Act 1998 (or equivalent nation legislation in the Member State in which we are registered) and set out brief details below:

…………………………………………………………………………………………

…………………………………………………………………………………………

…………………………………………………………………………………………

and we confirm that we have taken steps to ensure that this conduct is not repeated and are prepared to demonstrate to your satisfaction that this is the case. We warrant and undertake that we have not nor will we conduct any anti-competitive behaviour in this procurement.

5. We warrant and undertake that we have not nor will we conduct any anti-competitive behaviour during this procurement.

6. We understand that in this Certificate the word ‘person’ includes any persons and any body or association, corporate or unincorporated and ‘any agreement or arrangement’ includes any such transaction, formal or informal and whether legally binding or not.

**Non-canvassing:**

We hereby certify that we have not canvassed or solicited any officer or employee of the Authority in connection with the award of the contract and that no person employed by us or action on our behalf has done any such act.

We hereby further undertake that we will not in the future canvass or solicit any officer or employee of the Authority in connection with the award of the contract and that no person employed by us or acting on our behalf will do any such act.

**Conflict of interest statement:**

The Authority must ensure that it does not contravene Schedule 1, Part 1 of the Housing Act 1996, i.e. the Authority may not make a payment or grant a benefit to a Committee or Board Member, Officer or Employee of the Authority save and except in certain specified circumstances. The Authority therefore requires tenderers to answer the following questions:

1. Has any Director, Partner or Associate been an employee of the Authority within the last five years?

YES/NO (If yes please give details)

2. Please state if any Director, Partner or Associate has a relative(s) who is an officer or an employee of the Authority at a senior level or is a Cabinet Member or Councillor of Authority.

YES/NO (If yes please give details)

3. Please state if any Directors, Partners or Associates of your firm have any involvement in other firms who provide or have provided services to the Authority.

YES/NO (If yes please give details)

4. Is any Director, Partner or Manager an existing Resident or Leaseholder of the Authority.

YES/NO (If yes please give details)

Signed………………………………………………………………………………………….

Name…………………………………………………………………………………………

Position in Organisation (i.e. Director or Partner)………………………………………...

For and behalf of……………………………………………………………………………..

…………………………………………………………………………………………………..

Address: (In the case of a Limited Company, the Registered Office)

…………………………………………………………………………………………………..

…………………………………………………………………………………………………..

…………………………………………………………………………………………………..

Date…………………………………………………………………………………………….

**OFFENCES CERTIFICATE**

**To The London Borough of Southwark (‘the Authority’)**

**TENDER FOR Southwark Open Access Drop-in Service**

OPTION A:

We ***[ ]***do hereby certify that we (nor a member of our administrative, management or supervisory body or a person who has powers of representation, decision or control over us) have not been convicted of any offence referred to in Regulation 57 of the Public Contracts Regulations 2015, within the last 5 years, namely:

1. conspiracy within the meaning of section 1 or 1A of the Criminal Law Act 1977 or article 9 or 9A of the Criminal Attempts and Conspiracy (Northern Ireland) Order 1983 where that conspiracy relates to participation in a criminal organisation as defined in Article 2 of Authority Framework Decision 2008/841/JHA on the fight against organise crime;
2. corruption within the meaning of section 1(2) of the Public Bodies Corrupt Practices Act 1889 or section 1 of the Prevention of Corruption Act 1906, where the offence relates to active corruption;
3. the common law offence of bribery;
4. bribery within the meaning of section 1, 2 or 6 of the Bribery Act 2010, or section 113 of the Representation of the People Act 1983;
5. where the offence relates to fraud affecting the European Communities' financial interests as defined by Article 1 of the Convention on the protection of the financial interests of the European Communities:-
6. the common law offence of cheating the Revenue;
7. the common law offence of conspiracy to defraud;
8. fraud or theft within the meaning of the Theft Act 1968, the Theft Act (Northern Ireland) 1969, the Theft Act 1978 or the Theft (Northern Ireland) Order 1978;
9. fraudulent trading within the meaning of section 458 of the Companies Act 1985, article 451 of the Companies (Northern Ireland) Order 1986 or section 993 of the Companies Act 2006;
10. fraudulent evasion within the meaning of section 170 of the Customs and Excise Management Act 1979 or section 72 of the Value Added Tax Act 1994;
11. an offence in connection with taxation in the European Union within the meaning of section 71 of the Criminal Justice Act 1993;
12. destroying, defacing or concealing of documents or procuring the execution of a valuable security within the meaning of section 20 of the Theft Act 1968 or section 19 of the Theft Act (Northern Ireland) 1969;
13. fraud within the meaning of section 2, 3 or 4 of the Fraud Act 2006; or
14. the possession of articles for use in frauds within the meaning of section 6 of the Fraud Act 2006, or the making, adapting, supplying or offering to supply articles to use in fraud within the meaning of section 7 of that Act;
15. any offence listed –
16. in section 41 of the Counter Terrorism Act 2008; or
17. in Schedule 2 to that Act where the court has determined that there is a terrorist connection.
18. any offence under sections 44 to 46 of the Serious Crime Act 2007 which relates to an offence covered by subparagraph (f);
19. money laundering within the meaning of section 340(11) and 415 of the Proceeds of Crime Act 2002;
20. an offence in connection with the proceeds of criminal conduct within the meaning of section 93A, 93B or 93C of the Criminal Justice Act 1988 or article 45, 46 or 47 of the Proceeds of Crime (Northern Ireland) Order 1996;
21. an offence under section 4 of the Asylum and Immigration (Treatment of Claimants etc.) Act 2004;
22. an offence under section 59A of the Sexual Offences Act 2003;
23. an offence under section 71 of the Coroners and Justice Act 2009;
24. an offence in connection with the proceeds of drug trafficking within the meaning of section 49, 50 or 51 of the Drug Trafficking Act 1994;
25. an offence under section 2 or 4 of the Modern Slavery Act 2015
26. any other offence within the meaning of Article 57(1) of the Public Contracts Directive:
27. as defined by the law of any jurisdiction outside England and Wales and Nothern Ireland; or
28. Created, after the day on which the Public Contracts Regulations were made, in the law of England and Wales or Northern Ireland.

We do hereby further undertake that we will notify the Authority if we are convicted of any such offence during the procurement procedure.

We do hereby further certify that:

1. we are not in breach of our obligations relating to the payment or taxes or social security contributions, such breach having been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of any of the jurisdictions of the United Kingdom;
2. we are not in (and have not been in for the last 3 years) one of the situations referred to in Regulation 57(8) of the Public Contracts Regulations 2015;
3. we are not in breach of the requirements under Regulation 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010;

Signed………………………………………………………………….......................……

Authorised Signatory

Name………………………………………………………….........................……………

Position in Organisation (i.e. Director or Partner)……................................................

For and on behalf of………………………………........................………………………..

Address: (In the case of a Limited Company, the Registered Office)

………………………………………………………………..............………………………

……………………………………………………………...............………………………

…………………………………………………………......................………………………

Date…………………………………………………….......................…………………...…

OPTION B

We [ ] do hereby certify that we have been convicted of an offence referred to in Regulation 57 of the Public Contracts Regulations 2015 within the last 5 years, namely:

*Insert full details:*

AND/OR

We are in, or have been in within the last 3 years, one of the situations referred to in Regulation 57(8) of the Public Contracts Regulations 2015; namely:

*Insert full details:*

We certify that we have:-

1. paid or undertaken to pay compensation in respect of any damage caused by the criminal offence or misconduct;
2. clarified the facts and circumstances in a comprehensive manner by actively collaborating with the investigating authorities; and
3. taken concrete technical, organisational and personnel measures that are appropriate to prevent further criminal offences or misconduct.

The evidence of the measures we have taken to demonstrate our reliability are:

We do hereby further undertake that we will notify the Authority if we are convicted of any offence during the procurement procedure.

We do hereby further certify that:

1. we are not in breach of our obligations relating to the payment or taxes or social security contributions, such breach having been established by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of the country in which it is established or with those of any of the jurisdictions of the United Kingdom;
2. we are not in breach of the requirements under Regulation 3(1) of the Employment Relations Act 1999 (Blacklisting) Regulations 2010;

Signed………………………………………………………………….......................……

Authorised Signatory

Name………………………………………………………….........................……………

Position in Organisation (i.e. Director or Partner)……................................................

For and on behalf of………………………………........................………………………..

Address: (In the case of a Limited Company, the Registered Office)

………………………………………………………………..............………………………

……………………………………………………………...............………………………

…………………………………………………………......................………………………

Date…………………………………………………….......................…………………...…

**PARENT COMPANY GUARANTEE UNDERTAKING**

We ...................................................................................................................[Name]

being the ultimate holding company of our subsidiary company .................................. ..............………………………………………………………………………………….[Tenderer] unconditionally and irrevocably undertake that if the Tender submitted by ..………………………………………………………………………………….………..................

[name of Tenderer] is accepted by you, we shall forthwith upon request properly execute and deliver to you a Parent Company Guarantee and indemnity in the form accompanying the Conditions of Tendering but subject to the insertion of such details and the making of such minor revisions as the Council may agree in the light of the terms and the nature and effect of the contract made by your acceptance.

Signed ………………………............... Date ……………….........................

Name………………………….…………………………........................………………………….

Holding Company …………………………………………………………….............................

Address …………………………………………………………...............................................

………………………………………………………………………..…….....................................

……………………………………………………………….........................................................

…………………………………………………………………...................................................

**Parent Company Guarantee**

(Letterhead of Parent Company)

To: [*insert name and address of the Authority*]

Date:

Dear Sir/Madam

We, [*insert name of Guarantor*] (“**the Guarantor**"), understand that you have agreed to enter into Contract No [*insert contract number*](“**the Contract**") with [*insert name of Contractor*] (“**the Contractor**") in respect of [*briefly describe nature of contract*] on the condition that the obligations of the Contractor under the Contract be guaranteed by a Guarantor.

We are [*recite the relationship of the Guarantor to the Contractor*], and we warrant to you that this description of our relationship with/to the Contractor is true and accurate in all material respects.

WE HEREBY AGREE AND UNDERTAKE with you as follows:-

(a) We unconditionally guarantee on demand:

(i) the proper, complete and punctual performance by the Contractor of any and all its obligations, undertakings and responsibilities under the Contract and we shall forthwith make good any default thereunder on the part of the Contractor; and

(ii) the due and punctual payment by the Contractor of all sums, liabilities, awards, losses, damages, costs, charges and expenses that may be or become due and payable to you under or arising out of the Contract in accordance with its terms or otherwise by reason or in consequence of any such default on the part of the Contractor

when and as the same shall become due for performance or payment (as the case may be).

(b) As a separate and primary obligation we unconditionally guarantee to you that in the case of default by the Contractor in making any of the payments or in performing any of the obligations, undertakings and responsibilities set out in paragraph (a) above, we shall on demand pay all sums and observe and perform any or all of such obligations, undertakings and responsibilities as if we instead of the Contractor were the primary obligor. Any payment under this Guarantee shall be made by us in pounds sterling or in any currency which may from time to time replace pounds sterling.

(c) This Guarantee shall be a continuing security and shall remain in full force and effect until all obligations to be performed or observed by the Contractor under or arising out of the Contract have been duly and completely performed and observed and the Contractor shall have ceased to be under any actual or contingent liability to you thereunder.

(d) Any demand or other notice made by you under this Guarantee shall be duly made if sent by first class recorded delivery post to us.

(e) You shall be entitled to enforce this Guarantee without first notifying the Contractor of any default or taking any proceedings or demanding upon, enforcing or exhausting any right or remedy against the Contractor or any other person or taking any action to enforce any other security, bond or guarantee held by you or making or filing any claim in a bankruptcy, liquidation, administration or insolvency of the Contractor or any person.

(f) If any sum due or purportedly due under this Guarantee is not or would not be recoverable under a guarantee for any reason whatsoever, whether or not known to you, such sum shall still be recoverable from us as a sole principal debtor upon the terms of this Guarantee.

PROVIDED THAT:

1. We shall be under no greater obligation or greater liability under this Guarantee than we would have been under the Contract if we had been named as the Contractor in the Contract.

2. Our obligations hereunder are those of primary obligor and shall remain in full force and effect and shall not be terminated, reduced, discharged or otherwise affected by:

(a) any alteration or variation to the terms of the Contract made by agreement between you and the Contractor (including, without limitation, any increase in the Contractor’s obligations under the Contract or any alteration in the extent or nature or sequence or method or timing of the Services to be carried out under the Contract) or any novation of the Contract (in whole or in part); or

(b) any time being given to the Contractor or any other indulgence, waiver, concession, forbearance or forgiveness to the Contractor (whether express or by conduct) or any other thing done, omitted or neglected to be done under the Contract; or

(c) any other bond, security or guarantee now or hereafter held by you for all or any part of the obligations of the Contractor under the Contract; or

(d) the release or waiver of any such bond, security or guarantee referred to in paragraph 2(c) above; or

(e) any amalgamation, reconstruction or dissolution including, without limitation, winding-up of the Contractor; or

(f) the winding-up, bankruptcy, administration, receivership or insolvency of the Contractor; or

(g) any legal limitation, disability or incapacity relating to the Contractor or discharge by operation of law or any change in the constitution, name or style of the Contractor or any other person (whether or not known to you); or

(h) any total or partial invalidity in, irregularity affecting or unenforceability of any of the obligations of the Contractor under the Contract; or

(i) the termination or partial termination of the Contract or the cessation of any Services for any reason or the making of any variation to the Services in accordance with the Contract; or

(j) any claim or enforcement of payment from the Contractor or any other person;

(k) any act or omission which would not have discharged or affected the liability of a sole principal debtor instead of a guarantor or any act or omission, matter or thing which, but for this provision, might operate to exonerate, discharge, reduce or extinguish our liability under this Guarantee.

3. So long as we remain under any actual or contingent liability under this Guarantee, we shall not exercise any right of subrogation or any other right or remedy which we may have against the Contractor in respect of any payment made by or sum recovered from us pursuant to or in connection with this Guarantee or prove in any liquidation of the Contractor in competition with you for any sums or liabilities owing or incurred to us by the Contractor in respect of any such payment by or recovery from us or take or hold any security from the Contractor in respect of any liability of ours hereunder. We shall hold any monies recovered or security taken or held in breach of this provision in trust for you.

4. We undertake to immediately notify you in writing if there is a material change in the financial status of the Guarantor which would materially impair our ability to honour the covenants that are set out in this Guarantee (such as in circumstances where the Guarantor or one or more of its subsidiaries transfers all or substantially all of its/their assets to another company) during such time as this Guarantee remains in force and shall procure that, no later than 21 days from the date of such notification, a new Guarantor of broadly equivalent financial status to the old Guarantor shall execute a replacement deed of guarantee on substantially the same conditions as are set out in this Deed.  In such circumstances the new Guarantor shall be liable for all liabilities that occur or have occurred in relation to this Guarantee or the replacement deed of guarantee.

5. Except where prevented from doing so by law, we waive and agree not to enforce or claim the benefit of any and all rights we have or may from time to time have as guarantor under any applicable law which is or may be inconsistent with any of the provision of this Guarantee.

5. This Guarantee is irrevocable.

6. This Guarantee, executed and delivered as a deed, is governed by and shall be construed in accordance with the law of England. The courts of England shall have exclusive jurisdiction to settle any dispute which may arise out of or in connection with this Guarantee except that you have the right in your absolute discretion to enforce a judgment and/or to take proceedings in any other jurisdiction in which we are incorporated or in which any of our assets may be situated. You and we agree to submit to that jurisdiction.

[For non-UK resident Guarantors only:

7. For the purposes of this Guarantee we hereby appoint ............... of .......... (to be a London address) to accept service of process on our behalf, and service on the said ............ at the said address shall be deemed to be good service on us; and we hereby irrevocably agree not to revoke or terminate such appointment.]

8. You will be entitled to assign the benefit of this Guarantee in whole or in part but we may not assign the benefit and/or delegate the burden of this Guarantee in whole or in part or enter into any transaction which would result in any of those benefits and/or burdens passing to another person.

9. If any provision (in whole or in part) of this Guarantee is found by any court, tribunal, administrative body or authority of competent jurisdiction to be wholly or partly illegal, invalid or unenforceable then that provision shall, to the extent required, be severed from this Guarantee and shall be ineffective, without, so far as is possible, modifying any other provision of this Guarantee and this shall not affect any other provisions of this Guarantee which shall remain in full force and effect.

Executed as a Deed and delivered the day and year written above.

Executed as a Deed by ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[Parent Company]*  ) Director

acting by a Director and the )

Secretary or by two Directors ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Director/Secretary

OR

The common seal of ) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

*[Parent Company]*  ) Director

was affixed in the presence of: )

) \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Director/Secretary