**SHORTFORM CONTRACT FOR THE PROVISION OF CONSULTANCY SERVICES**

This Contract is made on…………………………………………………………………2022

 **BETWEEN THE PARTIES:**

‘The Purchaser’ **South Yorkshire Mayoral Combined Authority** whose registered office is at: 11 Broad Street West, Sheffield, S1 2BQ.

And

‘The Service Provider’ **SERVICE PROVIDER NAME** whose registered office is: SERVICE PROVIDER ADDRESS (Company number: NUMBER)

**RECITALS:**

1. The Purchaser wished to engage a service provider to deliver a ERDF Business Support Project Review (the Service) as set out more particularly in the Service Specification which is attached at Schedule 1.
2. The Service Provider has submitted proposals detailing the provision of Service which have been attached at Schedule 2.

c) The Purchaser has agreed to appoint the Service Provider to provide the Service in accordance with this Contract for the Contract Fee set out in Schedule 3.

d) For the avoidance of doubt, it is the intention of the Parties that nothing in this Contract shall give rise to an employee / employer relationship.

**CONTENTS**

|  |  |  |
| --- | --- | --- |
|  |  |  |
|  1.0 | Definitions and Interpretation |  |
|  2.0 | Appointment  |  |
|  3.0 | Contract Period |  |
|  4.0 | Provision and Quality of Service  |  |
|  5.0 | Price, Payment and Purchaser’s Financial System |  |
|  6.0 | Compliance with the Law |  |
|  7.0 | Confidentiality and Intellectual Property |  |
|  8.0 | Indemnity and Insurance |  |
|  9.0 | Assignment and Sub-Contracting |  |
| 10.0 | Employment and Agency |  |
| 11.0 | Notices |  |
| 12.0 | Waiver, Default and Severance |  |
| 13.0 | Dispute Resolution |  |
| 14.0 | Termination |  |
| 15.0 | Force Majeure |  |
| 16.0 | Publicity and Branding Guideline |  |
| 17.0 | Local Government Transparency Code 2015 |  |
| 18.0 | Data Protection Legislation |  |
| 19.0 | Law and the Contracts (Rights of Third Parties) Act 1999 |  |
|  |  |  |

**Schedules:**

Schedule 1 Service Specification

Schedule 2 Service Provider’s Proposal/Method Statements

Schedule 3 Contract Fee

Schedule 4 Confirmation of Insurance

Schedule 5 Processing, Personal Data and Data Subjects

Schedule 6 Personnel and Lead Adviser

Schedule 7 Milestones and Outputs – NOT USED

**OPERATIVE PROVISIONS:**

**1.0 Definitions and Interpretation**

 This Contract shall be interpreted in accordance with the following definitions, unless the context otherwise requires:

|  |  |  |
| --- | --- | --- |
| 1.1 | ‘Confidential Information’ | shall mean:1. 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 stored) including information which 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 Data Protection Legislation; and
2. the confidential information described in clause 7.1
 |
| 1.2 | ‘Contract’ | shall mean this Contract together with all Schedules hereto and all documents referred to herein, issued by the Purchaser from time to time. |
| 1.3 | ‘Contract Manager’ | shall mean the Appointed Officer being the officer responsible for managing the Contract on behalf of the Purchaser.  |
| 1.4 | ‘Data Protection Legislation’ | shall mean the Data Protection Act 2018 (DPA), and the General Data Protection Regulation ((EU) 2016/679) (GDPR)so far as it is retained by the European Union (Withdrawal) Act 2018 and any national implementing laws, regulations and secondary legislation, as amended or updated from time to time, in the UK and any successor legislation to the GDPR or the DPA. |
| 1.5 | ‘Law’ | means any applicable Act of Parliament, subordinate legislation, regulatory policy, guidance or industry code, judgment of a relevant court of law, or directives or requirements or any regulatory body of which the Service Provider and/or the Purchaser is bound to comply, including without limitation the Data Protection Legislation; |
| 1.6 | ‘Milestones’ | the milestones for delivery of the Services as set out in Schedule 7; |
| 1.7 | ‘Outputs’ | the outputs to be achieved by the Service Provider as set out in Schedule 7; |
| 1.8 | ‘Personnel’ | shall mean a person who is engaged in delivering the Service on behalf of the Service Provider, whether employed by the Service Provider, or as an agent or sub-contractor and the person who is Lead Adviser who shall be named in Schedule 6. |
| 1.9 | ‘Purchaser’s Financial System’ | shall mean the business processes that cover the Purchaser’s activities of requesting (requisitioning), purchasing, receiving, paying for and accounting for goods and services by electronic means.  |
| 1.10 | ‘Rules on Intermediaries’ | means Chapter 10 of the Income Tax (Earnings and Pensions) Act 2003. |
| 1.11 | ‘Service’ | shall mean the services to be provided by the Service Provider as set out in the Service Specification and Service Provider’s Proposals.  |
| 1.12 | ‘Service Provider’s Proposals’ | shall mean the proposal set out in Schedule 2 |
| 1.13 | ‘Service Specification’ | shall mean the specification set out in Schedule 1 |
| 1.14 | ‘Valid Invoice’ | shall mean an invoice from the Service Provider quoting the relevant order number and reference number delivered via the Purchaser’s Financial System or by any other electronic means or by post to South Yorkshire Mayoral Combined Authority Executive Team, 1st Floor, 11 Broad Street West, Sheffield, S1 2BQ for the attention of PETER FARLEY. Please ensure all invoices are addressed as follows to ensure prompt payment: SOUTH YORKSHIRE MAYORAL COMBINED AUTHORITY, 11 BROAD STREET WEST, SHEFFIELD, S1 2BQ. The delivered invoice becomes a Valid Invoice upon the satisfactory delivery of Services and then the Purchaser registering the invoice |
| 1.15 | ‘Working Day’ | shall mean any day on which the Purchaser’s principal offices at the 11 Broad Street West, Sheffield are open to the public for business. |

1.16 In the event of any ambiguity or inconsistency amongst the terms and conditions and the schedules of the Contract, their precedence shall be ranked as follows:

1.16.1 the terms and conditions;

1.16.2 the Service Specification;

1.16.3 the Service Provider’s Proposal.

**2.0 Appointment**

2.1 This Contract sets out all the terms and conditions agreed between the Parties regarding the provision of the Service. This means that it supersedes any representations, made, carried out or entered into before the date of this Contract.

**3.0 Contract Period**

* 1. This Contract shall be deemed to be effective from DATE (the “Commencement Date”).
	2. The Service Provider shall provide the Service in accordance with the Contract from the Commencement Date until DATE (the “Contract Period”) or until it is terminated early or extended in accordance with the terms of the Contract.

3.3 The Purchaser reserves the right to extend the Contract Period for a further period of not more than 1 months by notifying the Service Provider in writing, subject to a review by the Purchaser of, without limitation, continued need and satisfactory Service Provider performance at rates which are analogous to those set out in Schedule 3.

**4.0 Provision and Quality of Service**

4.1 Without affecting a higher standard required by the Contract and without prejudice to this clause 4, the Service Provider shall at all times provide the Service with all reasonable skill, care and diligence as is to be expected of a properly qualified and competent service provider experienced in carrying out work similar in size, scope, complexity and character to the Services.

4.2 The Service Provider warrants and undertakes that it shall comply with:

4.2.1 the terms of this Contract;

4.2.2 the specific requirements set out in the Service Specification at Schedule 1;

4.2.3 the Service Provider’s Proposal;

4.2.4 the Law; and

4.2.5 any reasonable instructions in writing given by the Purchaser in relation to the Services;

in carrying out the Services

4.3 The Service Provider shall use all reasonable endeavours to ensure that the Services are executed within the Contract Period. The Service Provider shall perform the Services in order to comply with any Milestones for the Services agreed with the Purchaser, unless the Consultant is prevented from so complying by circumstances outside its reasonable control.

4.4 The Service Provider shall liaise with the Contract Manager as often as shall be appropriate to ensure the proper carrying out and completion of the Services in accordance with the terms of this Contract.

4.5 The Contract and/or the Service Specification may be amended or added to at any time by the Purchaser either by agreement in writing between the Parties or where a statutory obligation requires a Variation to the Service. Such Variation shall be notified in writing by the Contract Manager detailing the nature of the Variation, and the date from which it will be effective

4.6 In both such cases the Purchaser shall, acting reasonably and having consulted the Service Provider, determine whether the Variation has a financial impact and assess that financial impact. Any such variation shall be given effect by fair and reasonable adjustment to the prices referred to in this Contract with effect from the date which the Variation concerned is effective.

4.7 Notwithstanding any other provision of this Contract, the Purchaser is under no obligation to give any orders for Services under this Contract.

4.8 If required or reasonably requested by the Purchaser to do so, the Service Provider must throughout the period of this Contract and for a period of six (6) years after the expiry of this Contract give all reasonable assistance to the Purchaser’s Audit and Standards Committee and/or Overview and Scrutiny Committee and to any other board/committee with a similar status, including attending the Purchaser’s Audit and Standards Committee and/or Overview and Scrutiny Committee in order to answer questions pertaining to this Contract.

4.9 The Service Provider shall appoint a lead adviser (the “Lead Adviser”) (who shall be named in Schedule 6), to direct and control the overall performance by the Service Provider of the Services. Such person shall have full authority to act on behalf of the Service Provider for all purposes in connection with this Contract.

4.10 Providing the Lead Adviser remains one of the Service Provider’s Personnel and is not absent from work through illness or sickness the Service Provider shall ensure such person’s services shall be available and accessible for so long as may be necessary to ensure the proper performance by the Service Provider of the Services, and devote sufficient time and attention to fulfilling their role, and if the Lead Adviser leaves or is removed the Service Provider shall replace the person with a suitably qualified and experienced replacement.

**5.0 Price, Payment and Purchaser’s Financial System**

5.1 Subject to:

5.1.1 satisfactory performance of the Services;

 5.1.2 the Service Provider achieving any relevant Outputs by the Milestones identified in Schedules 1 and 2, and

 5.1.3 the Service Provider submitting a valid invoice containing a purchase order number supplied by the Purchaser,

 the Purchaser shall pay the Service Provider for performed Services in accordance with the Contract Fee (as set out more particularly in Schedule 3). Prices are to be fixed for the duration of the Contract Period.

5.2 The Contract Fee shall be invoiced by the Service Provider to the Purchaser by instalments on the dates set out in Schedule 3.

5.3 The Service Provider shall submit to the Purchaser with each invoice any supporting documents that are reasonably necessary to check the invoice. All invoices in respect of Services being charged on a time basis shall contain a breakdown of time spent by each individual engaged in the provision of the Services.

5.4 The Purchaser shall reimburse the Service Provider for any expenses and disbursements which are specifically identified in Schedule 3 as subject to reimbursement by the Purchaser. Any other expenses and disbursements that the Service Provider incurs are deemed to be included in the Contract Fee. Any expenses or disbursements payable by the Purchaser to the Service Provider shall be included in the next invoice after they are incurred and shall be paid by the Purchaser in accordance with this clause 5.

5.5 Unless agreed otherwise between the Purchaser and the Service Provider in writing, the Purchaser shall pay the Service Provider within 30 days after the date the Purchaser registers the Service Provider’s Valid Invoice. Invoices will not be registered by the Purchaser for payment until satisfactory completion of the Services. VAT, where applicable, shall be shown separately on all invoices as a strictly net extra charge.

5.6 The Purchaser shall not be held responsible for delays in payment caused by the Service Provider’s failure to comply with the Purchaser’s invoicing instructions.

5.7 The Service Provider shall maintain and shall permit the Purchaser’s duly authorised staff or agents to examine at any reasonable time full and accurate accounts for the Services. Such accounts shall be retained by the Service Provider for at least six years following the end of the Financial Year (the 1st of April of one year to 31st March in the next) in which the last payment is made under this Contract and shall furnish the Purchaser with oral and/or written explanations of the accounts if required.

5.8 The Service Provider will at the request of the Purchaser provide the Purchaser with data about the goods and services they offer in relation to the provision of the Services in a format specified by the Purchaser in order to create electronic catalogues within any Purchase 2 Pay system that the Purchaser may use from time to time. The Purchaser reserves the right to change the Purchaser’s Financial System from time to time.

5.9 Interest on sums due but not paid under the Contract shall be payable in accordance with this clause 5:

5.9.1 for sums due from the Purchaser to the Service Provider if the Contract is a Contract in relation to which the Late Payment of Commercial Debts (Interest) Act 1998 applies, at the rate of 8% above the official bank rate of the Bank of England (as published from time to time), from and including the day following the final date for payment until the date of payment; and

5.9.2 for other sums due from the Purchaser to the Service Provider at the rate of 2% above the base lending rate per annum (as published from time to time) of the Barclays Bank plc, from and including the day following the final date for payment until the actual date of payment, which rates the Service Provider acknowledges provides the Service Provider with a substantial remedy for late payment by the Purchaser, in that it is sufficient to compensate the Service Provider for late payment; and

5.9.2 for sums due from the Service Provider to the Purchaser at the rate of 2% above the base lending rate per annum (as published from time to time) of the Barclays Bank plc, from the date when such payment is due until the date of payment.

**6.0** **Compliance with the Law**

###### The Service Provider warrants and undertakes to the Purchaser that it will, throughout the duration of this Contract, have in place adequate procedures designed to prevent breach and assist both the Service Provider and the Purchaser in all their statutory obligations but with especial regard to compliance with The Counter Terrorism and Security Act 2015, The Bribery Act 2010, The Data Protection Legislation, The Freedom of Information Act 2000; The Environmental Information Regulations 2004; Human Rights Act 1998; Disability Discrimination Act 2005; Equality Act 2010; Race Relations (Amendment) Act 2000; and the Transfer of Undertakings (Protection of Employment) Regulations 2006 (as amended)

###### 7.0 Confidentiality and Intellectual Property

7.1 The Service Provider shall, subject to clause 6:-

###### 7.1.1 treat as confidential all information:

###### (a) obtained or received by it in connection with the Contract and only use such information for the purposes of the Contract;

(b) concerning the existence or scope of this Contract or the Services; any draft or final report; any strategy or decision relating to the Services, the reason why the Services are being undertaken; the proposed business objective of the Purchaser in procuring the Services; any information, documents, data, designs and drawings relating to the Services and/or any dispute in connection with this Contract ;and

(c) about the business, affairs, technology, customers, or suppliers of the Purchaser;

 (the “Confidential Information”).

7.1.2 comply with the provisions of the Data Protection Legislation and that any Personal Data shall not be disclosed to any third party, unless expressly provided herein and subject in all respects to the Purchaser’s prior written consent;

7.1.3 ensure that the Service Provider’s Personnel observe the confidentiality of such information and comply with the provisions of this clause 7.1;

7.1.4 indemnify the Purchaser against any actions, damages, claims, loss or proceedings or costs arising from any breach of this clause 7.1 by the Service Provider.

7.2 The restrictions in clause 7.1 shall continue to apply after the Contract has come to an end or, if it takes place earlier, termination of the whole of this Contract but they shall not apply (whether whilst this Contract is in force or after) to information which:

7.2.1 is in, or comes into the public domain (except if this is as a result of a breach by either Party of this clause 7.2);

7.2.2 is required to be disclosed by law;

7.2.3 was already in the Service Provider’s possession without any restriction as to its use;

7.2.4 subsequently lawfully comes into the Service Provider’s possession from a third party; or

7.2.5 is required to be disclosed by any regulatory body or governmental body.

7.3 All reports and other documents and materials the copyright or intellectual property rights therein arising out of the performance of the Service Provider’s duties in relation to the Contract hereunder are hereby assigned to and shall vest in the Purchaser absolutely during the continuance of the Contract and after its termination howsoever arising.

7.4 The Service Provider shall obtain necessary approval before using any material or other items referred to in clause 7.3 above, in relation to the performance of the Contract which is or may be subject to any third-party intellectual property rights. The Service Provider shall procure that the owner of the intellectual property rights grants to the Purchaser a non-exclusive licence or sub-licence to use, reproduce, and maintain the intellectual property rights. Such licence or sub-licence shall be non-exclusive, perpetual and irrevocable, shall include the right to sub-license, transfer, novate or assign to other Councils, the replacement provider of the Services or to any other third party providing services the same as or similar to the Services to the Purchaser, and shall be granted at no cost to the Purchaser.

7.5 It is a condition of the Contract that the Services will not infringe any intellectual property rights of any third party and the Service Provider shall during and after the Contract Period on written demand indemnify and keep indemnified without limitation the Purchaser against all liabilities which the Purchaser may suffer or incur as a result of or in connection with any breach of this clause 7, except where any such claim relates to the act or omission of the Purchaser.

**8.0 Indemnity and Insurance**

8.1 The Service Provider shall indemnify and keep indemnified the Purchaser against all actions, proceedings, costs, claims, demands, liabilities, losses, fines and expenses whatsoever, whether arising in tort (including negligence), default or breach of contract, or breach of its statutory duty or breach of its obligations in Law, save to the extent that the same is directly caused by or directly arises from the negligence, breach of this Agreement or breach of statutory duty or breach of an obligations in Law by the Purchaser.

8.2 The Purchaser shall not be liable, whether in contract and / or tort (including negligence) or restitution, or for breach of statutory duty or misrepresentation, or otherwise, for any loss of profit, goodwill, business, business opportunity or anticipated saving; loss or corruption of data or information; or any special, indirect or consequential damage or loss suffered by the Service Provider that arises under or in connection with this Contract.

8.3 The limitations and exclusions set out in clause 8.4 shall not apply (and no limitation or exclusion of liability shall apply) with respect to the liability:

* + 1. for death or personal injury caused by the negligence of the Service Provider and its Personnel;
		2. for any fraud or fraudulent misrepresentations;
		3. under the indemnity at clause 7.6 (breach of intellectual property);
		4. breach of Data Protection Legislation, and
		5. to the extent such limitation or exclusion is not permitted by Law.

8.5 During the first year of this Contract and each year thereafter for the duration of the Contract the Service Provider shall maintain in force the following insurance policies obtained prior to contract commencement with generally recognized reputable insurance companies: (and which would pay out claims in relation to the indemnity given by the Service Provider in clause 8.1 where relevant):

8.5.1 public liability insurance for not less than £5,000,000 (five million pounds) per claim;

8.5.2 employers’ liability insurance for not less than £10,000,000 (ten million pounds); and

[8.5.3 professional indemnity insurance for not less than [£[2],000,000 ([two] million pounds)]

The Service Provider shall ensure the existence on each insurance policy for public liability and employers’ liability insurance of an indemnity to principal clause.

8.6 On taking out and on renewing each policy annually, the Service Provider shall promptly obtain (a) letter(s) from the Insurer(s) or Insurance Broker(s) on their letter-headed paper providing the required details as set out in Schedule 4 and send a copy of each letter to the Purchaser within 14 (fourteen) days of the Renewal Date.

8.7 The Service Provider shall ensure that any sub-contractors also maintain adequate insurance having regard to the obligations under this Contract which they are contracted to fulfil.

8.8 The Service Provider shall:

8.8.1 do nothing to invalidate any insurance policy or to prejudice the Purchaser's entitlement under it; and

8.8.2 notify the Purchaser if any policy is (or will be) cancelled or its terms are (or will be) subject to any material change or void.

8.9 The Service Provider’s liabilities under this Contract shall not be deemed to be released or limited by the Service Provider taking out the insurance policies referred to in clause 8.5.

**9.0 Assignment and Sub-Contracting**

###### 9.1 The Purchaser shall be entitled to assign the Contract or benefit of the Contract or any part thereof and shall give written Notice of any assignment to the Service Provider.

9.2 The Service Provider shall not, without obtaining the prior written consent of the Purchaser:

9.2.1 assign the Contract or any part thereof or the benefit or advantage of the Contract or any part thereof; or

9.2.2 sub-contract the Service or any part of the Service;

and if such consent is given, the Service Provider shall be responsible for all Services performed by any assignee and/or sub-contractors.

9.3 Where the Service Provider enters into a sub-contract with a sub-contractor for the purpose of performing its obligations under the Contract, it shall ensure that a provision is included in such sub-contract which requires payment to be made of all sums due by the Service Provider to the sub-contractor within a specified period not exceeding thirty (30) days from the receipt of a valid invoice for such sums from such sub-contractor.

9.4 In the event of a proposed change of ownership, the Service Provider shall immediately and in any event prior to the change taking place, inform the Purchaser.

9.5 The Service Provider shall give notice to the Purchaser should:

9.5.1 there be a change in the majority control of the shares in, or voting rights amongst its shareholders or members of its organisation;

9.5.2 it merge with another organisation;

9.5.3 it transfer any of its business to another organisation.

9.6 The Purchaser, on consideration of any change arising as a result of clause 9.4 and 9.5 may take action to terminate the Contract in accordance with clause 14 contained herein.

###### 10.0 Employment and Agency

10.1 This is a contract for the provision of services and not a contract of employment and accordingly the Service Provider shall be fully responsible for and shall indemnify the Purchaser for and in respect of any income tax, National Insurance and social security contributions and any other liability, deduction, contribution, assessment or claim arising from or made in connection with the performance of the Services, where the recovery is not prohibited by Law.

###### 10.2 Neither the Service Provider nor its Personnel shall in any circumstances hold themselves out as being employees or agents of the Purchaser nor authorised to enter into any Contract on behalf of the Purchaser.

10.3 The Service Provider acknowledges that the Purchaser has relied upon information provided to it by the Service Provider in determining whether the Rules on Intermediaries apply to this Contract. The Service Provider shall notify the Purchaser of any change to that information provided.

10.4 The Service Provider warrants that it is not nor will it prior to the cessation of this Contract, become a managed service company within the meaning of section 61B of the Income Tax (Earnings and Pensions) Act 2003.

**11.0 Notices**

11.1 Any Notice served under the Contract to be served upon either Party shall be valid and effective if it is in writing and is sent by email, recorded or personal delivery or first-class post to the Contract Manager or the Lead Adviser and all notices and communications shall be deemed to have been served:

### 11.1.1 if posted, 2 Working Days after the date when posted;

### 11.1.2 if personally delivered, on the date of delivery; or

### 11.1.3 if sent by email, at the time of transmission.

11.2 Where a Notice is deemed to have been served on a day which is not a Working Day or it is not received between the hours of 9am to 5pm on a Working Day then it shall be deemed to have been served on the next immediately following Working Day.

###### 12.0 Waiver, Default and Severance

12.1 Failure by either Party at any time to enforce the provisions of the Contract or to require performance by the Party in default thereof shall not affect the validity of any part of the Contract or the right of the Party not in default to enforce any provision in accordance with its terms.

12.2 If, in the reasonable opinion of the Purchaser the Service Provider fails to provide the Service in accordance with the Contract, the Purchaser shall issue a Notice of Default to the Service Provider. If a Notice of Default is issued, the Purchaser may (without prejudice to any other remedy available to it):

12.2.1 require the Service Provider to remedy the Default (if possible) within such reasonable period as the Purchaser may specify without any additional charge to the Purchaser; or

12.2.2 if the Service provider is unable to comply with clause 12.2.1, itself provide the Service, or have the Service provided in whole or in part, recovering both any monies which have been paid in advance for the Service and any cost of providing the service plus a reasonable sum in respect of the Purchaser’s administration costs in connection with such provision, until such time as the Service Provider can demonstrate to the Purchaser that the Service Provider is able to resume provision of the Service in accordance with the Contract.

12.3 Where the Purchaser issues a Notice of Default it may charge the Service Provider up to the sum of £150.00 as a contribution towards the Purchaser’s administrative costs in connection with the Notice of Default which the Service Provider hereby acknowledges represents a genuine pre-estimate of the costs.

12.4 Where, in the reasonable opinion of the Parties, the Default is deemed to be incapable of remedy, action to terminate the Contract shall be taken.

12.5 If any provision of this Contract or part thereof should be found to be invalid, ineffective or unenforceable under any applicable statute or regulation, the remainder of the provisions shall stand in full force and effect.

**13.0 Dispute Resolution**

13.1 Without prejudice to any other rights under the Contract either Party may register a dispute with the other by raising the matter with the other Party in writing (a ‘Dispute Notice’) setting out brief particulars of the matter in dispute and the remedy or other outcome sought. Within 10 days the Parties shall attempt to resolve any dispute arising out of or relating to this contract through negotiations between the Parties.

13.2 If the matter is not resolved by negotiation within 30 days of receipt of a written Dispute Notice, the Parties will attempt to resolve the dispute in good faith through an agreed Alternative Dispute Resolution (ADR) procedure, or in default of agreement, through an ADR procedure as recommended to the Parties by the President or the Vice President of the Chartered Institute of Arbitrators.

13.3 If the matter has not been resolved by an ADR procedure within 60 days of the initiation of that procedure, or if any party will not participate in an ADR procedure, the dispute may be referred to arbitration by either Party.

13.4 The arbitration shall be governed by both the Arbitration Act 1996 and Rules as agreed between the Parties. Should the Parties be unable to agree on an arbitrator, or be unable to agree on the Rules for Arbitration, either Party may, upon giving written notice to the other Party, apply to the President or the Vice President of the Chartered Institute of Arbitrators for the appointment of an Arbitrator and for any decision on rules that may be necessary.

13.5 In the event of the dispute being referred to ADR the Party requesting the referral shall be responsible for paying the costs of the nomination of the ADR Mediator. Following such a nomination, the fees accruing from the ongoing involvement of the process shall be shared equally between the Parties.

13.6 The obligations of the Parties under the Contract shall not cease, or be suspended or delayed by the reference of a dispute to ADR and the Service Provider shall comply fully with the requirements of the Contract at all times.

13.7 If the Parties fail to reach agreement in the structured negotiations within 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 and nothing in this clause 13.7 shall be construed as prohibiting a Party from applying to a court for interim injunctive relief.

**14.0 Termination**

###### 14.1 Without prejudice to any other rights the Purchaser may have under the Contract, the Contract may be terminated at any time by the Purchaser giving at least 1 month’s notice in writing to the Service Provider (or such lesser period as may be agreed between the Parties).

###### 14.2 In addition to any other rights of termination the Purchaser may have under the Contract, the Purchaser may terminate the Contract by Notice in writing having immediate effect should any of the following apply:

###### 14.2.1 the Service Provider has committed a breach of its obligations under the Contract, or any applicable Law, which is, in the reasonable opinion of the Purchaser substantial and, if the breach or failure is capable of remedy, has failed to remedy the same to the reasonable satisfaction of the Purchaser within 10 Working Days of the Service Provider receiving Notice of Default from the Purchaser;

14.2.2 the Service Provider has a winding up order made against it, or becomes bankrupt, or makes a composition or arrangement with its creditors, appoints a liquidator or administrative receiver or passes a resolution for voluntary winding up passed or has a proposal in respect of its company for a voluntary arrangement for a composition of debts, or has possession taken by or on behalf of the holders of any debentures secured by a floating charge of any property comprised in or subject to the floating charge or scheme or arrangement approved in accordance with the Insolvency Act 1986;

14.2.3 any gift, bribe or inducement of whatever kind is offered or given by or on behalf of the Service Provider to any person in connection with the Contract or if the Service Provider is, or has any partner, director or senior manager of it convicted of an offence of dishonesty;

14.3 Termination under clause 14.1 or 14.2 is without prejudice to the rights of the Parties accrued prior to termination and to clauses 15 and 14.4.

###### 14.4 In the event of termination under clause 15 the Purchaser shall:

14.4.1 cease to be under any obligation to make further payment until any costs, loss or damage resulting from or arising out of the termination shall have been calculated and provided that such calculation shows a sum or sums due to the Service Provider;

###### 14.4.2 be entitled to employ and pay other persons to provide and complete the provision of the Service or any part thereof;

###### 14.4.3 be entitled to deduct from any sum or sums which would but for clause 14.4 have been due from the Purchaser to the Service Provider under the Contract or any other contract or be entitled to recover the same from the Service Provider as a debt, any loss or damage to the Purchaser resulting from or arising out of the termination. Such loss or damage shall include the reasonable cost to the Purchaser of the time spent by it in terminating the Contract and in making alternative arrangements for the provision of the Service or any part thereof.

###### 14.5 In respect of a termination under clause 14.2 when the total costs, loss and damage resulting from or arising out of the termination of the Contract have been calculated and deducted so far as practicable from any sum or sums which would but for clause 14.4 have been due to the Service Provider, any balance shown as due to the Purchaser shall be recoverable as a debt. Alternatively, the Purchaser shall pay to the Service Provider any balance shown as due to the Service Provider.

14.6 Notwithstanding any other provision of this Contract, if this Contract is terminated by the Purchaser due to the Service Provider’s insolvency or default at any time, the Purchaser shall only be liable to reimburse eligible payments made by, or due to, the Service Provider in respect of the provision of the Service before the date of termination.

14.7 Upon termination the Service Provider shall promptly:

14.7.1 return to the Purchase all equipment, materials, drawings, details, plans, specifications, schedules, reports, calculations and other work (whether in the course of preparation or completed) that it has supplied in connection with the provision of the Services under this Contract;

14.7.2 return to the Purchaser all documents and materials (and any copies) containing Confidential Information;

14.7.3 erase the Confidential Information from its computer systems (to the extent possible); and

14.7.4 on request, certify that it has complied with the requirements of this clause 14.7.

14.8 Upon any termination of the Service Provider's engagement howsoever arising, the Purchaser shall not be liable, save as is exclusively set out in clause 14.5, to the Service Provider for any loss of profit, loss of contracts or other costs, losses and/or expenses arising out of or in connection with such termination.

**15.0 Force Majeure**

15.1 In this clause 15, ‘Force Majeure’ event means strikes or lockouts not involving the Service Provider or its Personnel, Acts of God, war, radiation, major cyber-attacks, compliance with the express instructions of the police or other emergency services, compliance with any law or governmental order, rule, regulation or direction to the extent that any of the same are beyond the reasonable control of the Party seeking to rely on this clause 15 or any other event or occurrence which is outside the reasonable control of either Party concerned or which is not attributable to any act or failure to take preventative action by the Party concerned.

15.2 If either Party is prevented, hindered or delayed from or in performing any of its obligations under this Contract by reason of a Force Majeure event then:

15.2.1 that Party’s obligations under this Contract shall be suspended for so long as the Force Majeure event continues and to the extent that the Party is so prevented, hindered or delayed;

15.2.2 as soon as reasonably possible after commencement of the Force Majeure event that Party shall notify the other Party in writing of the occurrence of the Force Majeure event, the date of commencement of the Force Majeure event and the effects of the Force Majeure event on its ability to perform its obligations under the Contract;

15.2.3 that Party shall use all reasonable efforts to mitigate the effects of the Force Majeure event upon the performance of its obligations under this Contract and that Party shall forthwith notify the other Party in writing of the cessation of the Force Majeure event and shall resume the performance of its obligations under the Contract as soon as reasonably possible after such cessation.

15.3 If the Force Majeure event continues for more than 30 days after the commencement of the Force Majeure event, either Party may terminate the Contract by giving not less than 30 days’ Notice in writing to the other Party (unless otherwise agreed in writing between the Parties).

**16.0 Publicity and Branding Guidelines**

16.1 The Service Provider shall not make any public statement, press release or other communication to the media concerning the Services or this Contract without prior approval of the Contract Manager who may require any such statement or communication to be in such form as shall be prescribed.

**17.0 Local Government Transparency Code 2015**

## 17.1 As a Local Authority, the Purchaser must publish details of any contract, commissioned activity, purchase order, framework agreement and any other legally enforceable agreement with a value that exceeds £5,000. If the value of this Contract exceeds £5,000, or if any extension or variation to the Contract results in its total value exceeding £5,000, the following details of the Contract will be published by the Purchaser on its website on a quarterly basis:

 a) reference number: C0780

 b) title of agreement: ERDF Business Support Project Review

c) local authority department responsible: SOUTH YORKSHIRE MAYORAL COMBINED AUTHORITY EXECUTIVE TEAM

d) description of the goods and/or services being provided: Review of business support needed within UK Shared Prosperity Fund, to replace European Regional Development Fund

e) Service Provider name and details: SERVICE PROVIDER NAME AND ADDRESS

f) sum to be paid over the length of the contract or the estimated annual spending or budget for the contract: TOTAL CONTRACT VALUE

g) Value Added Tax that cannot be recovered: ZERO

h) start, end and review dates: COMMENCEMENT DATE AND COMPLETION DATE

i) whether or not the contract was the result of an invitation to quote or a published invitation to tender: INVITATION TO TENDER

j) whether or not the Service Provider is a small or medium sized enterprise and/or a voluntary or community sector organisation and where it is, provide the relevant registration number: NOT APPLICABLE

17.2 The Service Provider will notify the Purchaser as soon as reasonably possible of any change to the information included in clause 17.1, and the Service Provider consents to the Purchaser publishing the information set out in clause 17.1 on a quarterly basis.

**18.0 Data Protection Legislation**

18.1 Both parties will comply with all applicable requirements of the Data Protection Legislation.

**19.0 Law and the Contracts (Rights of Third Parties) Act 1999**

19.1 This Contract is governed by English Law and shall be subject to the jurisdiction of the English Courts. References to any Act of Parliament or to any Order, Regulation, Statutory Instrument shall be deemed to include a reference to any amendments or re-enactment of the same.

19.2 A person who is not a party to the Contract shall have no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any of its terms.

This agreement has been entered into on the date stated at the beginning of it.

Signed by Steve Davenport on behalf of

South Yorkshire Mayoral Combined Authority:

………….………………………………………………………………….……..(signature)

…………………….………………………………………………………….…..(name)

……………………………….………………………………………….………..(position)

……………………………………………………………………………………..(date)

Signed by NAME for and

on behalf of Company NAME:

………….………………………………………………………………….……..(signature)

…………………….………………………………………………………….…..(name)

……………………………….………………………………………….………..(position)

……………………………………………………………………………………..(date)

The Contract Manager for this contract PETER FARLEY confirms that this commission and contract for Goods and Services conforms to The Purchaser’s Procurement Procedure Rules.

**Schedule 1 – Service Specification**

**Specification**

* 1. **Introduction**

South Yorkshire has benefitted from significant European Regional Development Fund (ERDF) from the 2014-20 Programme and this has supported a number of projects including a range of Business Support programmes and projects. As the region moves from access to ERDF to the new UK Shared Prosperity Fund (SPF) an independent review of current local authority managed and partner-managed Business Support activity is considered appropriate to determine future needs.

This ITT seeks a ‘light touch’ interim review and assessment of the delivered projects with the outcome expected to address the following:

* A high-level summary of the impacts achieved by the activity to date.
* Analysis of the different models of delivery and their complementarity
* Views of partners and beneficiaries to the effectiveness of the programmes.
* In the context of a Cost-of-Living crisis, a likely recession and a need to significantly improve the performance of the South Yorkshire economy consideration of the following:
1. What should the nature and mix of Business Support programmes in South Yorkshire look like from April 2023 – taking a lead from work already undertaken by SYMCA?
2. Consideration as to any duplication/overlap of activity, either in theme, focus or delivery geography.
3. In the context of 1), what effective role could of existing ERDF Business Support projects have from April 2023 and:
4. Should any of the activity continue ‘as is’?
5. Should any of the activity be brought to a conclusion by June 2023?
6. Should any of the activity continue but be adapted to meet current and future needs?
7. Should some elements of the activity be brought together to create simplification and cost-effectiveness going forward?
8. In respect to 3) recommendations and identification of delivery efficiencies that could be achieved.
	1. **Vision and Benefits**

Appendix 1 provides a list of ERDF funding Business Support projects that are currently delivering activity within South Yorkshire. The activity varies from direct 1 2 1 support from experienced Business Advisors to grant programmes where businesses can access direct financial support subject to the provision of match funding.

The ERDF programme comes to an end in December 2023; however, the majority of projects listed in Appendix will cease activity between April and June 2023 to enable a timely ERDF closure process. Without additional external funding support, it is not expected that any of the projects would continue with LA funding alone. This potentially leaves a significant gap in the South Yorkshire Business Support offer.

The majority of ERDF projects operate across South Yorkshire on a ‘hub’ and ‘spoke’ type model where one Local Authority acts as an Accountable Body for the project on behalf of the other LA’s. Thereafter the activity is either delivered like-for-like in each LA area or the individual LA has the ability to establish a Service that is slightly more bespoke to their business community needs.

The approach outlined above has been put into practice for over 20 years and sits alongside other business support activity either delivered through the other public sector support include SYMCA (the Growth Hub) and the private sector. More recently SYMCA has provided additional resource through their Recovery Action Plan (RAP). A consequence of the approach is that a number of teams have been built up to deliver and/or administer complex ERDF funded projects. Without replacement funding some of this experience might be lost to the region and its businesses.

Each ERDF project is subject to bespoke and detailed evaluation prior to its financial competition. This review, subject to this tender, is not to replicate these evaluations but rather undertake a ‘light touch’ review to inform partners whether UKSPF would be an option for the continuation of the type of activity, where the existing ERDF projects could represent a route to deliver such activity, and what kind of model is likely to be most effective for delivery

The South Yorkshire Shared Prosperity Investment Plan was submitted to Government on 1st August (Appendix 2) and has a specific allocation of £14.9m aimed at Business Support activity. The SYMCA is the Accountable Body for the SYSPF activity and will need to source Business Support activity to deliver the objectives of the Investment Plan. Funding is likely to be made available either by direct Commissioning and/or a series of competitive Calls or Proposals. It is hoped that this process will start before the end of October 2022. Notably the level of funding is less than previous ERDF allocations and as such the output of this Review / Assessment is likely to influence the UKSPF process.

**Description of Goods / Service to be provided**

South Yorkshire Mayoral Combined Authority, together with its South Yorkshire local authorities and universities, seeks to commission a ‘light touch’ assessment of the ERDF funded Business Support projects to help inform future activity funded through the SYSPF.

The outputs of this work should be a report due by the end of October 2022 and should include the following:

1. A review of the Business Support activity required in South Yorkshire (based on work undertaken by SYMCA).
2. A short description of the ERDF projects included in the assessment and a summary of performance to date in respect to outputs and outcomes together with costs to date. This information shall be provided by each Accountable Body for the project and represents more of a ‘desk top analysis’.
3. A limited number of focused interviews with relevant individuals, businesses and organisations that have been involved with the project either as a delivery partner or beneficiary. To be facilitated by SYMCA and the ERDF Accountable Bodies.
4. A brief assessment of the value of the project to date in terms of achieving its aims, its direct and indirect impact and whether the activity represents overall added value.
5. An assessment of any strengths or weaknesses identified through the research.
6. As assessment of value for money based on costs and benefits to date.

In the context of the replacement of ERDF with the SYSPF and its Investment Plan and using the quantitative and qualitative data collected from the Stage 1 the bidder shall provide an opinion as to the following and the associated implications:

1. What should the nature and mix of Business Support programmes in South Yorkshire look like from April 2023 – taking a lead from work already undertaken by SYMCA?
2. Consideration as to any duplication/overlap of activity.
3. In the context of 1), what effective role could of existing ERDF Business Support projects have from April 2023 and:
4. Should any of the activity continue ‘as is’?
5. Should any of the activity be terminated by June 2023?
6. Should any of the activity continue be but adapted to meet current and future needs?
7. Should some elements of the activity be brought together to create simplification and cost-effectiveness going forward?

In respect to 3) recommendations and identification of delivery efficiencies that could be achieved.

Bidders should note that the SY LA partners will work with the successful bidder on developing and facilitating their review and assessment.

At a minimum we would expect the work to entail discussions with the Lead parties for each ERDF project and a limited number of interviews participants and businesses that have directly benefited from the project activity. Where appropriate the SY LAs will facilitate workshops with other partner organisations.

We expect the respondents to this tender to design the methodology to answer the above questions and it is expected that bidders will suggest other areas of enquiry where it is felt there are gaps in this specification.

* 1. **Performance Measures /Contract monitoring**
		1. The contract will be managed by SYMCA, who will be responsible for overseeing the work of the supplier and managing performance. The successful bidder will be expected to attend a limited number of contract meetings in order to report progress, issues and request decisions/steer. The frequency of these is to be agreed at the inception meeting.
		2. We have an established Steering Group for the ERDF Business Support Review comprised of Council officers from the South Yorkshire LAs as well as private sector representatives who will take oversight of this piece of work, provide guidance and steer, and approve the final document.
	2. **Payments and Invoices**
		1. Payments will be made following completion of required work and presentation of a valid invoice which will be required to be sent to payments@southyorkshire-ca.gov.uk . Please ensure invoices are sent with your P/O customer number which you will be provided with.

**Schedule 2 – Service Provider’s Proposal/Method StatementsSchedule 3 – Contract Fee**

 **Schedule 4 - Confirmation of Insurance**

**Schedule 5 -** **Processing, Personal Data and Data Subjects**

**This Schedule 5 to be developed based on data processing implications of Service Provider’s response**

|  |  |
| --- | --- |
| **Description** | **Details** |
| Identity of Controller for each Category of Personal Data | **The Purchaser is Controller and the Service Provider is Processor**The Parties acknowledge that in accordance with paragraph 2 to paragraph 15 and for the purposes of the Data Protection Legislation, the Purchaser is the Controller and the Service Provider is the Processor of the following Personal Data:* ***Insert*** *the scope of Personal Data which the purposes and means of the Processing by the Service Provider is determined by the Purchaser*
 |
| Duration of the Processing | *START DATE – END DATE**Data collection and recording during engagement period**Data storage, analysis and transmission during term of Order**Data erasure and destruction at end of Order term* |
| Nature and purposes of the Processing | *Nature: Collection, recording, storage, analysis and transmission Purpose: Consent and Public Task* |
| Type of Personal Data |   |
| Categories of Data Subject | *Members of the public* |
| Plan for return and destruction of the data once the Processing is completeUNLESS requirement under Union or Member State law to preserve that type of data | *Service Provider to destroy data on expiration of Contract Term. Anonymised analysis of data to be returned to Purchaser on expiration of Contract Term.*  |

**SCHEDULE 6 – PERSONNEL AND LEAD ADVISER**

**SCHEDULE 7 - MILESTONES AND OUTPUTS**

NOT USED