|  |  |
| --- | --- |
| Sevenoaks District Council Direct Services  Dunbrik Depot  2 Main Road  Sundridge  Sevenoaks Kent TN14 6EP |  |

invitation to TENDER

for

The Supply of Compostable Paper Garden Waste Collection Sacks for a Household Garden Waste Collection Service

Commencing 1st July 2019 until 30th June 2021

(with the option to extend the agreement until 31 March 2022)

Including:

Specification

Form of Tender

Collusive Tendering Certificate

Commercially Sensitive Information

Selection Questionnaire

General Conditions and Form of Contract

# SEVENOAKS DISTRICT COUNCIL

# Invitation to Tender for the Supply of Compostable Paper Garden Waste Collection Sacks for a Household Garden Waste Collection Service

### General Information and Instructions for Tendering

#### Invitation to Tender

* 1. The District Council of Sevenoaks invites tenders from companies or persons experienced in the manufacture and supply of compostable paper waste sacks. Tenderers’ are asked to submit tenders for different contract terms and sack specifications. If a Tenderer is unable to manufacture sacks complying with the specified sack properties, tolerances and performance criteria, an explanation is to be submitted with the tender. Tenderers may submit for consideration one or more additional tenders based on alternative specifications as well as submitting a compliant tender. Additional tenders may include variations in sack design and packaging but sack quality and performance should not be diminished when tested for compliance with the specified performance criteria.
  2. The Contract Term shall be from 1st July 2019 to 30th June 2021 (2 years) with the option to extend by mutual agreement for a further nine months to 31 March 2022.
  3. The Council’s current estimated annual requirements are 150,000 garden waste sacks.
  4. Persons or companies selected to submit tenders are advised to ensure that they are fully familiar with the nature and extent of the obligations required of them.
  5. Tenderers are required to examine the Specification and Conditions of Contract for the supply and delivery of compostable paper waste sacks at the time, place, quantities and tender price as is set out herein or is ascertained in accordance with the tender and Conditions of Contract.
  6. Should any company or person who submits a tender be in doubt as to the interpretation of any part of the tender document they should contact Patrick Cheung, Recycling Officer, Direct Services, Dunbrik Depot, 2 Main Road, Sundridge, Kent, TN14 6EP (phone: 01732 227420, fax: 01959 563011, or by e-mail: [patrick.cheung@sevenoaks.gov.uk](mailto:patrick.cheung@sevenoaks.gov.uk)) who will endeavour to answer written enquiries prior to such tenders being submitted. Tenderers should note that responses by the Council to general questions and questions of fact will be made available to all prospective Tenderers.
  7. Every tender received by the Council shall be deemed to have been made subject to the terms and conditions of the tender documents unless the Council shall have previously and expressly agreed in writing to the contrary. Any alternative terms and conditions (which must be submitted in a separate form) offered on behalf of the Tenderer shall, if inconsistent with the terms and conditions of the tender documents, be deemed to have been rejected by the Council unless expressly accepted in writing.
  8. No officer, servant, or agent of the Council has authority to vary or waive any part of the tender documents other than the authorised officer nominated by the Council who shall do so only in writing.

#### Preparation of Tender

* 1. It is the responsibility of the Tenderers to obtain for themselves, at their own expense, all information necessary for the preparation of their tenders.
  2. Information supplied by the Council (whether in their tender documents or otherwise) is supplied for general guidance in the preparation of the tenders and Tenderers must satisfy themselves by their own investigation with regard to the accuracy of any such information and no responsibility is accepted by the Council for inaccuracy obtained by Tenderers.
  3. All information supplied by the Council in connection with this invitation to tender shall be regarded as confidential by the Tenderer except such information that may be disclosed for the purpose of obtaining sureties and quotations necessary for the preparation of the tender.
  4. The tender documents are and shall remain the property of the Council and must be returned upon demand.
  5. Tenders must be submitted for the whole supply as detailed in the Specification and upon the terms set out in the contract. Tenders for part only will be rejected at the Council’s absolute discretion.
  6. The tender should be made on the Forms of Tender incorporated herein. They should be signed by the Tenderer and submitted in the manner and by the date and time stated below with:
     1. Selection Questionnaire
     2. Collusive Tendering Certificate
     3. Commercially Sensitive Information Certificate

together with any supporting information

* 1. All documents requiring a signature must be signed;
     1. where the Tenderer is an individual, by that individual;
     2. where the Tenderer is a partnership, by two duly authorised partners;
     3. where the Tenderer is a company, by two directors or by a director and the secretary of the company, such persons being duly authorised for that purpose.
  2. Sample sacks are to be provided separately in accordance with paragraphs 4.1 to 4.4 below.
  3. The successful Tenderer will be required to execute a formal agreement and until execution of that agreement the successful Tenderer will be legally bound to the Council provided the Council have first written and accepted the tender and issued an official order. The Tenderer acknowledges that they will enter into the formal agreement within 14 days of its receipt.

#### Tender Submission

* 1. All documents comprising the Tender, including the Form of Tender, Collusion Tendering Certificate, Schedule of Commercially Sensitive Information and the completed Standard Selection Questionnaire (SQ) must be placed a plain sealed envelope bearing no other markings. A yellow mailing label (to be found in a separate, accompanying PDF document) marked **“Supply of Compostable Paper Garden Waste Collection Sacks for a Household Garden Waste Collection Service”** should be affixed to the front of the envelope. **Tenders must then be sent by registered post, recorded delivery or delivered by hand to the Head of Legal & Democratic Services, Sevenoaks District Council, Council Offices, Argyle Road, Sevenoaks, Kent TN13 1HG so as** **to arrive no later than noon on 31st May 2019.**
  2. The Council will not consider requests for an extension of the closing date and time specified.
  3. The Council may at its own absolute discretion extend the closing date and time specified.
  4. No tender received after the time and date specified for its opening shall be accepted or considered by the Council unless the Head of Legal & Democratic Services or the Chief Officer Corporate Services is satisfied that there is sufficient evidence of the tender having been dispatched in time for it to have arrived before the closing date and time, or other exceptional circumstances apply and the other tenders have not been opened
  5. The Tenderer is required to keep this tender valid for acceptance for a period of 90 days from the date of the tender.
  6. The Council reserves the right (but is not obliged) to seek clarification of any aspect of a Tenderer's Tender during the evaluation phase where necessary for the purposes of carrying out a fair evaluation. Tenderers are asked to respond to such requests promptly. Vague or ambiguous answers are likely to score poorly or render the Tender non-compliant.
  7. The Council is not bound to accept the lowest or any tender.
  8. Every tender received by the Council shall be deemed to have been made subject to the terms and conditions of the tender documents unless the Council shall previously have expressly agreed in writing to the contrary. Any alternative terms or conditions (which must be submitted on a separate form) offered on behalf of a Tenderer shall if inconsistent with the terms and conditions of the tender documents be deemed to have been rejected by the Council unless expressly accepted in writing.
  9. No servant or agent of the Council has authorisation to vary or waive any part of the Tender documents other than an authorised officer nominated by the Council and who shall do so only in writing.
  10. Tenders for part only of the specification will be rejected.

#### Provision of Samples

* 1. The Tenderer will be required to supply 12 sacks as samples to enable evaluation as part of the tender evaluation process. The samples provided shall be of a quality typical of those to be supplied under the terms of the Contract.
  2. The samples must be forwarded under separate cover from the Tender in a plain package bearing no other markings. A yellow mailing label (to be found in a separate, accompanying PDF document) marked **“Supply of Compostable Paper Garden Waste Collection Sacks for a Household Garden Waste Collection Service”** be affixed to the front of the package. **Samples must then be sent by registered post, recorded delivery or delivered by hand** to Mr. Patrick Cheung, Recycling Officer, Sevenoaks District Council, Direct Services, Dunbrik Depot, 2 Main Road, Sundridge, Kent, TN14 6EP **to arrive no later than noon on 31st May 2019**. Within the package the submission must be clearly identified as belonging to the particular tender in question.
  3. All Tenderers will be required to supply sample sacks (4.1 above) in accordance with the Specification herein contained, or a suitable alternative specification, and the contract will be construed as one of sample and description complying with the specification.
  4. The description of the sacks is set out in the Specification and where appropriate manufactured to the British Standards Institution or European Commission equivalent standards that are current at the date of tender. All goods and workmanship shall be in accordance with such standards.

#### Tender Evaluation

* 1. The criteria the Council will employ for evaluating the Tender will be the most economically advantageous.
  2. All tenders received will be evaluated on the information contained in the Tender or obtained by the Council as a direct result of the tender process. Submissions will be competitively assessed and the assessment may take into account but is not necessarily limited to the following:
     1. Compliance with Specification and technical merit
     2. Description and Sample evaluation results
     3. Price
     4. Certainty of Supplies
     5. Delivery conditions that any supplier may require to be incorporated into the Contract
     6. Environmental characteristics
     7. Off-site storage provision
  3. Evaluation Model

Weightings will range from 0 to 15. Price will be awarded up to 50 points. Compliance with Specification and sample results up to 20 Points and up to 30 points being divided between the remaining criteria including the Questionnaire. Certain provisions will be overriding requirements which may render the tender submitted ineligible.

#### Contract

* 1. The Contract Term shall initially be for a period of two years from the commencement date but the Council may at its sole discretion extend the contract for a further period of up to one year in accordance with the General Conditions of Agreement (“Contract”) hereinafter contained subject to the provisions of the Local Government Act 1988.
  2. The successful Tenderer will be notified by letter and will then be required to enter into the Contract attached with the Council prior to the commencement of goods or service delivery. Tenderers are agreeing to be bound by the terms of this ITT and the Contract without further negotiation or amendment.
  3. The conditions in the Contract shall apply to each order made under the Contract and each such order shall be treated as a separate call off under the said Contract and any other terms and conditions that the Supplier may purport to apply under invoice or similar document shall be excluded (other than those specific conditions of supply that may be agreed in writing by the Council and incorporated into the Contract).
  4. Subject to the circumstances described in paragraph 1 above, the Supplier hereby agrees to supply the goods and services in accordance with this Invitation to Tender, the Specification at the price quoted in the Form of Tender (subject to agreed variation) exclusive of VAT.

#### Warnings and disclaimers

* 1. While the information contained in this ITT is believed to be correct at the time of issue, neither the Council, its advisors, nor any other awarding authorities will accept any liability for its accuracy, adequacy or completeness, nor will any express or implied warranty be given. This exclusion extends to liability in relation to any statement, opinion or conclusion contained in or any omission from, this ITT (including its appendices) and in respect of any other written or oral communication transmitted (or otherwise made available) to any Tenderer. This exclusion does not extend to any fraudulent misrepresentation made by or on behalf of the Council.
  2. If a Tenderer proposes to enter into a Contract with the Council, it must rely on its own enquiries and on the terms and conditions set out in the Contract(s) (as and when finally executed), subject to the limitations and restrictions specified in it.
  3. Neither the issue of this ITT, nor any of the information presented in it, should be regarded as a commitment or representation on the part of the Council (or any other person) to enter into a contractual arrangement.

#### Confidentiality and Freedom of Information

* 1. This ITT is made available on condition that its contents (including the fact that the Tenderer has received this ITT) is kept confidential by the Tenderer and is not copied, reproduced, distributed or passed to any other person at any time, except for the purpose of enabling the Tenderer to submit a Tender.
  2. As a public body, the Council is subject to the provisions of the Freedom of Information Act 2000 (FOIA) in respect of information it holds (including third-party information). Any member of the public or other interested party may make a request for information.
  3. Tenderers should be aware that, in compliance with its transparency obligations, the Council routinely publishes details of its contract(s), including the contract values and the identities of its suppliers on its website without consulting the provider of that information.
  4. The Council shall treat all Tenderers' responses as confidential during the procurement process. Requests for information received following the procurement process shall be considered on a case-by-case basis, applying the principles of FOIA, which permits certain information to be withheld, for example where disclosure would be prejudicial to a party’s commercial interests, and in accordance with the Council’s transparency obligations.
  5. Therefore, Tenderers are responsible for ensuring that any confidential or commercially sensitive information, the disclosure of which would be likely to diminish the Tenderer’s competitive edge, has been clearly identified to the Council in the template provided at Schedule 4.

#### Publicity

* 1. No publicity regarding the Services or the award of any Contract will be permitted unless and until the Council has given express written consent to the relevant communication. For example, no statements may be made to the media regarding the nature of any Tender, its contents or any proposals relating to it without the prior written consent of the Council.

#### Bid costs

* 1. The Council will not be liable for any bid costs, expenditure, work or effort incurred by a Tenderer in proceeding with or participating in this procurement, including if the procurement process is terminated or amended by the Council.

Schedule 1 specification

The garden waste sack required is a 2-ply paper sack with a capacity of at least 75 litres and dimensions of 600 x 800 x 250 mm (W x H x D). However paper sacks of equivalent strength and capacity, but not necessarily identical design or dimensions, will be considered. The sacks, when opened to their full extent, should sit on the ground so as to be easily filled by users.

The sacks are to be manufactured to remain intact and durable for 14 days, subject to correct usage and exposure to adverse weather conditions. Technical specification and quality control test data (including tear testing results) should be submitted along with the supplier’s tender.

Packaging: Tenders are required for supply of sacks in bundles of 25. Suppliers may submit additional tenders based on different bundle numbers for consideration where they can offer a reduced cost, or bundle combinations that do not require an increased cost.

Printing: Information is to be printed on SDC garden sacks in a bright green colour, and shall include the SDC logo, a green identity stripe, and lists of acceptable and unacceptable materials. The printing shall be similar to that detailed in Appendix 1. Text shall have a minimum font size suitable for ease of reading. Sizes and colour are to be agreed between Supplier and the nominated officer prior to manufacture. Font shall be Lato, the Council’s corporate font. A sample of our current sack can be viewed for reference upon request.

Supply: Quantities of up to a maximum of 60,000 sacks per delivery are currently taken in 2 to 3 deliveries per year. Sacks will be delivered within 28 calendar days of receipt of an official order.

Storage: At present we have on-site storage capacity for 20 pallets stacked two high, stored inside to ensure the sacks are protected from inclement weather. Sacks are to be delivered on pallets that are shrink-wrapped with plastic and are topped with plywood or other suitable ‘hats’ to enable them to be safely stacked. Said pallets are required to be reusable or recyclable.

Deliveries: Are to be made to the Council’s Direct Services, based at Dunbrik Depot, 2 Main Road, Sundridge, Sevenoaks, Kent, TN14 6EP, giving 48 hours notice. Dunbrik Depot is a busy operational base for Council services including waste collection and street cleansing.

To avoid conflict between Council and supplier vehicles, sack deliveries can only be received between the hours of 8:00 am and 12:00 pm on Wednesday. We have a forklift to unload on site. Any deliveries attempted outside these hours/day, without the prior approval of the Dunbrik Depot stores manager or another authorised member of staff, will be refused access and the delivery vehicle turned away. All costs incurred in such situation shall be borne by the supplier.

Reserve Sacks Stock Requirements: The supplier will always have on hand a further four (4) pallets of sacks in the event of manufacturing and/or other unforeseen production or delivery delays.

Samples: Tenderers will be required to submit 12 sample sacks as provided in paragraph 4 of the Invitation to Tender.

Price: The tender price for compostable paper sacks shall include colouring, printing, and each despatch will be separately invoiced to the Council.

**SPECIFICATION APPENDIX 1**

Printing required on each sack

The following information, provided for illustrative purposes only, is what appears on the paper garden waste sack currently used by Sevenoaks District Council. This should be taken into consideration by the supplier; however suppliers may submit different design and/or printing options where these can offer reduced costs and/or other benefits.



**The guidelines, as found on each garden waste sack, are shown in greater detail below:**

|  |  |
| --- | --- |
| **🗸 YES** | **🞫 NO** |
| **🗸Grass Clippings**  **🗸Flowers & Leaves**  **🗸Hedge Trimmings**  **🗸Weeds & Twigs**  **🗸Small Shrubs**  **🗸Branches under 1 Metre**  **long & 2” (50mm) in diameter** | **🞫 Soil, Stones, or Rubble**  **🞫 Turf, Fencing, or Wood**  **🞫 Food Waste or Pet Litter**  **🞫 Paper or Plastic (e.g., plant**  **pots, bags, tags, furniture, posts, etc.)**  **🞫 Branches over 1 Metre long**  **& 2” (50mm) in Diameter** |

**Place at property boundary the night before or by 7AM on scheduled collection day**

**Tel.: 01732 227000**

**e-mail: recycling@sevenoaks.gov.uk**

Schedule 2 Form of Tender – Tender Certificate

|  |  |
| --- | --- |
| FORM OF TENDER: Tender Certificate | |
| TO: Sevenoaks District Council | |
| PROVISION OF: Supply of Compostable Paper Sacks for Household Garden Waste Collections | |
| 1. Having examined the Specification and General Conditions of Agreement along with other documents for the supply and delivery of compostable paper sacks for household garden waste collections as, set out in the Invitation to Tender, we offer to provide the service in conformity with the said General Conditions of Agreement and Specification at the prices specified below inclusive of all discounts and charges relating thereto hereinafter called the Tender Price, or such other sum as may be ascertained in accordance with the said General Conditions of Agreement. 2. We undertake that the Tender Price shall be a firm price, provided that our tender is accepted within 90 days of the date hereof. 3. If this offer is accepted, we will execute such documents in the form of the Agreement within 30 days of being called on to do so. 4. We agree that should any error in arithmetic be discovered before acceptance of Tender, such errors may be corrected and the appropriate adjustments made. 5. We undertake to commence the service immediately upon the Council giving their written authority to commence work and it is agreed that time is of the essence. 6. We understand that you are not bound to accept the lowest or any Tender you may receive. 7. We agree that you may accept our Tender in whole or in part. 8. We understand that, if our Tender is accepted in whole or in part, the Council does not bind itself to purchase a specific number of goods or services in any given year. 9. Unless and until a formal agreement is prepared and executed, this Tender together with your acceptance thereof in writing shall constitute a binding contract between us. Thereafter the terms and conditions of the General Conditions of Agreement shall apply. | |
| 1. We will forward a sample of 12 of sacks as required in the Invitation to Tender. | |
| Tender Prices  (\*please delete non-applicable)  Please use additional sheets if necessary   1. Price per 1,000 paper garden waste sacks (exclusive of VAT)   (Please complete the box)   |  |  |  |  | | --- | --- | --- | --- | | Total Sack Cost Per | Contract Period in Years | Tender Price | Will price remain firm over Contract Period | | 1,000 | 2 | £ | YES/NO\* |     2. If the Contract Price will not remain firm for the Contract Period please state:  (a) the period for which prices can be held firm from the 1st July 2019  [Contract Price will remain firm until day of 20 ]  (b) the basis on which price will be determined for the optional 9 month extension [Please state basis, i.e., linked to retail prices index etc.]  (c) if you are ready to accept price decreases in the event that raw material costs fall:  YES/NO\*  NOTE: Variations in cost will only be considered on the following basis and then only on receipt of objective and independent evidence:   * Increases in wages negotiated through recognised procedures on basic rates of pay * Increases or decreases in costs of raw materials * Increases in haulage costs   3. Please confirm that you are a manufacturer of the sacks to be supplied under this tender.  YES/NO\*  4. If you are not a manufacturer of the sacks, in what capacity do you represent the manufacturer?  5. Please confirm that 4 pallets of sacks will be kept in reserve during the course of the contract.  YES/NO\*  6. If 4 pallets of sacks are not to be kept in reserve during the course of the contract then please confirm what arrangements will be made in case of delayed orders due to production issues, or other difficulties.  7. Please confirm whether or not you are ISO EN 13432:2000 accredited or the equivalent.  Please tick as appropriate. If you are not please indicate when you may be.  Date  No  Yes  8. Please confirm whether or not you are ISO EN 14001 accredited or the equivalent.  Please tick as appropriate. If you are not please indicate when you may be.  Date  No  Yes  9. Please confirm whether or not your product is PAS110 Compliant.  Please tick as appropriate. If you are not please indicate when you may be.  Date  No  Yes | |
|  | **FORM COMPLETED BY** |
| Signature |  |
| Name |  |
| Position |  |
| For and on behalf of |  |
| Address |  |
| Date |  |

Schedule 3 Collusive Tendering Certificate

|  |  |
| --- | --- |
| Declaration | |
| We certify that this is a bona fide Tender, 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 hour and date specified for the return of this Tender any of the following acts: -  (a) Communicate to any person the amount or approximate amount of the proposed Tender, except where the disclosure, in confidence, of the approximate amount of the Tender was necessary to obtain insurance premium quotations required for the preparation of the Tender;  (b) Enter into any agreement or arrangement with any other person that he or she shall refrain from tendering or as to the amount of any Tender to be submitted;  (c) Offer or pay or give or agree to pay or give any sum of 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 said work any act or thing of the sort described above.  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.  **By completing this declaration you are agreeing with the statement above** | |
|  | **FORM COMPLETED BY** |
| Signature |  |
| Name |  |
| Position |  |
| For and on behalf of |  |
| Address |  |
| Date |  |

Schedule 4 Commercially Sensitive Information

I declare that I wish the following information to be designated as commercially sensitive.

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The reason(s) it is considered that this information should be exempt under FOIA is:

|  |
| --- |
|  |

The period of time for which it is considered this information should be exempt is [until award of Contract **OR** during the period of the contract **OR** for a period of [NUMBER] years until [MONTH], [YEAR]].

|  |
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|  |  |
| --- | --- |
|  | **FORM COMPLETED BY** |
| Signature |  |
| Name |  |
| Position |  |
| For and on behalf of |  |
| Address |  |
| Date |  |

schedule 5 Standard Selection questionnaire

**sevenoaks district council**

**open procedure**

**Notes for completion**

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

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

**Selection Questionnaire Assessment**

| Section | | Assessment | Weighting |
| --- | --- | --- | --- |
| 1 | Potential supplier information | For information only | N/A |
| 2 | Grounds for mandatory exclusion | Responses scored on a pass/fail basis | N/A |
| 3 | Grounds for discretionary exclusion | Responses scored on a pass/fail basis | N/A |
| 4 | Economic and Financial Standing | Responses scored on a pass/fail basis | N/A |
| 5 | Wider groups | Responses scored on a pass/fail basis | N/A |
| 6 | Technical and Professional Ability | Responses scored on a pass/fail basis | N/A |
| 7 | Modern Slavery Act | Responses scored on a pass/fail basis | N/A |
| 8.1 | Insurance | Responses scored on a pass/fail basis | N/A |

**Part 1: Potential supplier Information**

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

|  |  |  |
| --- | --- | --- |
| **Section 1** | **Potential supplier information** | |
| **Question number** | **Question** | **Response** |
| 1.1(a) | Full name of the potential supplier submitting the information |  |
| 1.1(b) – (i) | Registered office address (if applicable) |  |
| 1.1(b) – (ii) | Registered website address (if applicable) |  |
| 1.1(c) | Trading status   1. public limited company 2. limited company 3. limited liability partnership 4. other partnership 5. sole trader 6. third sector 7. other (please specify your trading status) |  |
| 1.1(d) | Date of registration in country of origin |  |
| 1.1(e) | Company registration number (if applicable) |  |
| 1.1(f) | Charity registration number (if applicable) |  |
| 1.1(g) | Head office DUNS number (if applicable) |  |
| 1.1(h) | Registered VAT number |  |
| 1.1(i) - (i) | If applicable, is your organisation registered with the appropriate professional or trade register(s) in the member state where it is established? | Yes  No  N/A |
| 1.1(i) - (ii) | If you responded yes to 1.1(i) - (i), please provide the relevant details, including the registration number(s). |  |
| 1.1(j) - (i) | Is it a legal requirement in the state where you are established for you to possess a particular authorisation, or be a member of a particular organisation in order to provide the services specified in this procurement? | Yes  No |
| 1.1(j) - (ii) | If you responded yes to 1.1(j) - (i), please provide additional details of what is required and confirmation that you have complied with this. |  |
| 1.1(k) | Trading name(s) that will be used if successful in this procurement |  |
| 1.1(l) | Relevant classifications (state whether you fall within one of these, and if so which one)   1. Voluntary Community Social Enterprise (VCSE) 2. Sheltered Workshop 3. Public service mutual |  |
| 1.1(m) | Are you a Small, Medium or Micro Enterprise (SME)[[2]](#footnote-2)? | Yes  No |
| 1.1(n) | Details of Persons of Significant Control (PSC), where appropriate:[[3]](#footnote-3)  - Name;  - Date of birth;  - Nationality;  - Country, state or part of the UK where the PSC usually lives;  - Service address;  - The date he or she became a PSC in relation to the company (for existing companies the 6 April 2016 should be used);  - Which conditions for being a PSC are met;  - Over 25% up to (and including) 50%,  - More than 50% and less than 75%,  - 75% or more.[[4]](#footnote-4)  (Please enter N/A if not applicable) |  |
| 1.1(o) | Details of immediate parent company:    - Full name of the immediate parent company  - Registered office address (if applicable)  - Registration number (if applicable)  - Head office DUNS number (if applicable)  - Head office VAT number (if applicable)  (Please enter N/A if not applicable) |  |
| 1.1(p) | Details of ultimate parent company:  - Full name of the ultimate parent company  - Registered office address (if applicable)  - Registration number (if applicable)  - Head office DUNS number (if applicable)  - Head office VAT number (if applicable)  (Please enter N/A if not applicable) |  |

Please note: A criminal record check for relevant convictions may be undertaken for the preferred suppliers and the persons of significant in control of them.

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

|  |  |  |
| --- | --- | --- |
| **Section 1** | **Bidding model** | |
| **Question number** | **Question** | **Response** |
| 1.2(a) - (i) | Are you bidding as the lead contact for a group of economic operators? | Yes  No  If yes, please provide details listed in questions 1.2(a) (ii), (a) (iii) and to 1.2(b) (i), (b) (ii), 1.3, Section 2 and 3.  If no, and you are a supporting bidder please provide the name of your group at 1.2(a) (ii) for reference purposes, and complete 1.3, Section 2 and 3. |
| 1.2(a) - (ii) | Name of group of economic operators (if applicable) |  |
| 1.2(a) - (iii) | Proposed legal structure if the group of economic operators intends to form a named single legal entity prior to signing a contract, if awarded. If you do not propose to form a single legal entity, please explain the legal structure. |  |
| 1.2(b) - (i) | Are you or, if applicable, the group of economic operators proposing to use sub-contractors? | Yes  No |
| 1.2(b) - (ii) | If you responded yes to 1.2(b)-(i) please provide additional details for each sub-contractor in the following table: we may ask them to complete this form as well.   |  |  |  |  |  |  | | --- | --- | --- | --- | --- | --- | | Name |  |  |  |  |  | | Registered address |  |  |  |  |  | | Trading status |  |  |  |  |  | | Company registration number |  |  |  |  |  | | Head Office DUNS number (if applicable) |  |  |  |  |  | | Registered VAT number |  |  |  |  |  | | Type of organisation |  |  |  |  |  | | SME (Yes/No) |  |  |  |  |  | | The role each sub-contractor will take in providing the works and /or supplies e.g. key deliverables |  |  |  |  |  | | The approximate % of contractual obligations assigned to each sub-contractor |  |  |  |  |  | | |

**Contact details and declaration**

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

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

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

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

I am aware of the consequences of serious misrepresentation.

|  |  |  |
| --- | --- | --- |
| **Section 1** | **Contact details and declaration** | |
| **Question number** | **Question** | **Response** |
| 1.3(a) | Contact name |  |
| 1.3(b) | Name of organisation |  |
| 1.3(c) | Role in organisation |  |
| 1.3(d) | Phone number |  |
| 1.3(e) | E-mail address |  |
| 1.3(f) | Postal address |  |
| 1.3(g) | Signature (electronic is acceptable) |  |
| 1.3(h) | Date |  |

**Part 2: Exclusion Grounds**

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

|  |  |  |
| --- | --- | --- |
| **Section 2** | **Grounds for mandatory exclusion** | |
| **Question number** | **Question** | **Response** |
| 2.1(a) | **Regulations 57(1) and (2)**  The detailed grounds for mandatory exclusion of an organisation are set out on this [webpage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf), which should be referred to before completing these questions.  Please indicate if, within the past five years you, your organisation or any other person who has powers of representation, decision or control in the organisation been convicted anywhere in the world of any of the offences within the summary below and listed on the [webpage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf). | |
|  | Participation in a criminal organisation. | Yes  No  If Yes please provide details at 2.1(b) |
|  | Corruption. | Yes  No  If Yes please provide details at 2.1(b) |
|  | Fraud. | Yes  No  If Yes please provide details at 2.1(b) |
|  | Terrorist offences or offences linked to terrorist activities | Yes  No  If Yes please provide details at 2.1(b) |
|  | Money laundering or terrorist financing | Yes  No  If Yes please provide details at 2.1(b) |
|  | Child labour and other forms of trafficking in human beings | Yes  No  If Yes please provide details at 2.1(b) |
| 2.1(b) | If you have answered yes to question 2.1(a), please provide further details.  Date of conviction, specify which of the grounds listed the conviction was for, and the reasons for conviction,  Identity of who has been convicted  If the relevant documentation is available electronically please provide the web address, issuing authority, precise reference of the documents. |  |
| 2.2 | If you have answered Yes to any of the points above have measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion ? (Self Cleaning) | Yes  No |
| 2.3(a) | **Regulation 57(3)**  Has it been established, for your organisation by a judicial or administrative decision having final and binding effect in accordance with the legal provisions of any part of the United Kingdom or the legal provisions of the country in which the organisation is established (if outside the UK), that the organisation is in breach of obligations related to the payment of tax or social security contributions? | Yes  No |
| 2.3(b) | If you have answered yes to question 2.3(a), please provide further details. Please also confirm you have paid, or have entered into a binding arrangement with a view to paying, the outstanding sum including where applicable any accrued interest and/or fines. |  |

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

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Section 3** | **Grounds for discretionary exclusion** | | | |
|  | **Question** | | | **Response** |
| 3.1 | **Regulation 57 (8)**  The detailed grounds for discretionary exclusion of an organisation are set out on this [webpage](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/551130/List_of_Mandatory_and_Discretionary_Exclusions.pdf), which should be referred to before completing these questions.  Please indicate if, within the past three years, anywhere in the world any of the following situations have applied to you, your organisation or any other person who has powers of representation, decision or control in the organisation. | | | |
| 3.1(a) | Breach of environmental obligations? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1 (b) | Breach of social obligations? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1 (c) | Breach of labour law obligations? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1(d) | Bankrupt or is the subject of insolvency or winding-up proceedings, where the organisation’s assets are being administered by a liquidator or by the court, where it is in an arrangement with creditors, where its business activities are suspended or it is in any analogous situation arising from a similar procedure under the laws and regulations of any State? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1(e) | Guilty of grave professional misconduct? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1(f) | Entered into agreements with other economic operators aimed at distorting competition? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1(g) | Aware of any conflict of interest within the meaning of regulation 24 due to the participation in the procurement procedure? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1(h) | Been involved in the preparation of the procurement procedure? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1(i) | Shown significant or persistent deficiencies in the performance of a substantive requirement under a prior public contract, a prior contract with a contracting entity, or a prior concession contract, which led to early termination of that prior contract, damages or other comparable sanctions? | | | Yes  No  If yes please provide details at 3.2 |
| 3.1(j)  3.1(j) - (i)  3.1(j) - (ii)  3.1(j) –(iii)  3.1(j)-(iv) | Please answer the following statements  The organisation is guilty of serious misrepresentation in supplying the information required for the verification of the absence of grounds for exclusion or the fulfilment of the selection criteria.  The organisation has withheld such information.  The organisation is not able to submit supporting documents required under regulation 59 of the Public Contracts Regulations 2015.  The organisation has influenced the decision-making process of the contracting authority to obtain confidential information that may confer upon the organisation undue advantages in the procurement procedure, or to negligently provided misleading information that may have a material influence on decisions concerning exclusion, selection or award. | | | Yes  No  If Yes please provide details at 3.2  Yes  No  If Yes please provide details at 3.2  Yes  No  If Yes please provide details at 3.2  Yes  No  If Yes please provide details at 3.2 |
| 3.2 | | If you have answered Yes to any of the above, explain what measures been taken to demonstrate the reliability of the organisation despite the existence of a relevant ground for exclusion? (Self Cleaning) |  | |

**Part 3: Selection Questions**[[5]](#footnote-5)

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

|  |  |  |  |
| --- | --- | --- | --- |
| **Section 5** | **If you have indicated in the Selection Questionnaire question 1.2 that you are part of a wider group, please provide further details below:** | | |
| **Name of organisation** | |  | |
| **Relationship to the Supplier completing these questions** | |  | |
| **5.1** | Are you able to provide parent company accounts if requested to at a later stage? | | Yes  No |
| **5.2** | If yes, would the parent company be willing to provide a guarantee if necessary? | | Yes  No |
| **5.3** | If no, would you be able to obtain a guarantee elsewhere (e.g. from a bank)? | | Yes  No |

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Section 6** | **Technical and Professional Ability** | | | | |
| **6.1** | **Relevant experience and contract examples**  Please provide details of up to three contracts, in any combination from either the public or private sector; voluntary, charity or social enterprise (VCSE) that are relevant to our requirement. VCSEs may include samples of grant-funded work. Contracts for supplies or services should have been performed during the past three years. Works contracts may be from the past five years.  The named contact provided should be able to provide written evidence to confirm the accuracy of the information provided below.  Consortia bids should provide relevant examples of where the consortium has delivered similar requirements. If this is not possible (e.g. the consortium is newly formed or a Special Purpose Vehicle is to be created for this contract) then three separate examples should be provided between the principal member(s) of the proposed consortium or Special Purpose Vehicle (three examples are not required from each member).  Where the Supplier is a Special Purpose Vehicle, or a managing agent not intending to be the main provider of the supplies or services, the information requested should be provided in respect of the main intended provider(s) or sub-contractor(s) who will deliver the contract.  If you cannot provide examples see question 6.3 | | | | |
|  | | | **Contract 1** | **Contract 2** | **Contract 3** |
| **Name of customer organisation** | | |  |  |  |
| **Point of contact in the organisation** | | |  |  |  |
| **Position in the organisation** | | |  |  |  |
| **E-mail address** | | |  |  |  |
| **Description of contract** | | |  |  |  |
| **Contract Start date** | | |  |  |  |
| **Contract completion date** | | |  |  |  |
| **Estimated contract value** | | |  |  |  |
| **6.2** | Where you intend to sub-contract a proportion of the contract, please demonstrate how you have previously maintained healthy supply chains with your sub-contractor(s)  Evidence should include, but is not limited to, details of your supply chain management tracking systems to ensure performance of the contract and including prompt payment or membership of the UK Prompt Payment Code (or equivalent schemes in other countries) | | | | |
|  |  | | | | |
| **6.3** | | If you cannot provide at least one example for questions 6.1, in no more than 500 words please provide an explanation for this e.g. your organisation is a new start-up or you have provided services in the past but not under a contract. | | | |
|  | |  | | | |

|  |  |  |
| --- | --- | --- |
| **Section 7** | **Modern Slavery Act 2015:** **Requirements under Modern Slavery Act 2015** | |
| **7.1** | Are you a relevant commercial organisation as defined by section 54 ("Transparency in supply chains etc.") of the Modern Slavery Act 2015 ("the Act")? | Yes  N/A |
| **7.2** | If you have answered yes to question 7.1 are you compliant with the annual reporting requirements contained within Section 54 of the Act 2015? | Yes  Please provide the relevant url …  No  Please provide an explanation |

**8. Additional Questions**

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

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

Schedule 6 General Conditions of Agreement

AGREEMENT made the day of 2019

BETWEEN

of

(hereinafter called “the Supplier”) of the one part and THE DISTRICT COUNCIL OF SEVENOAKS of Council Offices, Argyle Road, Sevenoaks, Kent TN13 1HG (hereinafter called “the Council”) of the other part.

WHEREAS the Council has accepted the Supplier’s tender dated the day of 2019, to supply goods to the Council at the sums quoted in the said tender, calculated in accordance with the mechanism set out in the schedule to the tender for the period of two (2) years from the date of the said tender, such goods to be provided in accordance with the tender specification and any other documentation attached hereto.

#### Definitions and Interpretations

In this Agreement and the Contract Documents except where the context otherwise requires the following expressions shall have the meanings hereby ascribed to them:-

* 1. “Council” shall mean the District Council of Sevenoaks or its Officers or Employer of this Contract
  2. “Supplier” shall mean the Company named in the Contract Documents (the Supplier under the Contract) and its employees and agents and persons with its ostensible authority
  3. “Contract” and “contract documents” shall mean the agreement entered into between the Supplier and the Council embodying the Tender the Specification all associated documents and the Supplier’s acceptance of the General Conditions of Agreement.
  4. The “Contract Standard” means the supply of goods which meet in every respect with the description samples specification and all relevant provisions of the Contract and where and to the extent that no criteria are stated in the Contract then the Supplier must perform the Contract to the standard the Council require and such standard is to be to the entire satisfaction of the Head of Direct Services.
  5. “Contract Sum” shall mean the sum payable from time to time following an official order calculated by reference to the Schedule attached to the tender forming part of the contract documents as pro-rata costs for any total below or above cost per 1,000 sacks as shown in the tender. The contract sum will include delivery but is exclusive of VAT.
  6. “Contract Term” means the period from the 1st July 2019 until midnight on the 30th of June 2021 or as may be extended for a period of nine months by mutual agreement at the price to be determined in accordance to the Schedule annexed to the Tender.
  7. “delivery site” means Sevenoaks Direct Services, Dunbrik Depot, 2 Main Road, Sundridge, Kent TN14 6EP.
  8. “goods” or “sacks” mean garden waste paper sacks made in accordance with the Specification provided in such quantities that are officially ordered by the Council.
  9. “Head of Direct Services” shall mean the Head of Direct Services for the time being of the Environmental and Operational Services Department or such representative appointed by the Council to act in the names of the parties hereto for purposes of this Contract.
  10. “Specification” means those pages marked as specification in the Contract Documents the goods being provided in accordance with the specification and samples provided (if any).
  11. “Supply” is the collective term of the service referred to in Clause 2 hereof being the supply of garden waste paper sacks, as ordered by the Council throughout a period of two years from the date referred to in Tender forming the Contract Documents the Supplier making the goods available within 28 calendar days of the order from the Council for the purposes of complying with the provisions of Clause 2.
  12. A reference to any Act of Parliament or to any Order Regulation Statutory Instrument or the like shall include a reference to any amendment or re-enactment of the same.
  13. Words importing the masculine gender include the feminine gender words in the singular include the plural and vice versa and words importing individuals shall be treated as importing corporations and vice versa.
  14. Conditions heading and notes are for ease of reference only and shall not affect construction of the Contract.

#### Performance and Payment

* 1. The Supplier hereby agrees that during the Contract Term (including any extension of the Term) the Supplier shall provide all goods required under an official order issued by the Council from time to time throughout the contract term. The Supplier shall put the Council on notice that such goods will be delivered (between the hours of 08:00am to 12:00 noon delivery, as per the Specification) to the Council from the Supplier, and all such goods will comply with the Specification and samples provided in the Tender and generally be to the Contract Standard and satisfaction of the Head of Direct Services.
  2. In consideration of the execution carrying out and completion by the Supplier of the supply as aforesaid, the Council hereby covenants to pay to the Supplier the Contract Sum as calculated in accordance with the Contract Documents in accordance with a valid and undisputed invoice.
  3. Where the Supplier submits an invoice to the Council, the Council will consider and verify that invoice in a timely fashion.
  4. ​The Council shall pay the Supplier any sums due under such an invoice no later than a period of 30 days from the date on which the Council has determined that the invoice is valid and undisputed.
  5. Where the Council fails to comply with paragraph 1 and there is an undue delay in considering and verifying the invoice, the invoice shall be regarded as valid and undisputed for the purposes of paragraph (2) after a reasonable time has passed.
  6. Where the Supplier enters into a Sub-Contract, the Supplier shall include in that Sub-Contract:
     1. ​provisions having the same effect as clauses 2.3 to 2.5 of this Contract; and
     2. a provision requiring the counterparty to that Sub-Contract to include in any Sub-Contract which it awards provisions having the same effect as clauses 2.3 to 2.5 of this Contract.
     3. in this clause 2.6, “Sub-Contract” means a contract between two or more suppliers, at any stage of remoteness from the Council in a subcontracting chain, made wholly or substantially for the purpose of performing (or contributing to the performance of) the whole or any part of this Contract.
  7. If the Council fails to make any payment due to the Supplier in accordance with this clause then the Council shall pay interest on the overdue amount at 3% above Barclays Bank's base rate from time to time. Such interest shall accrue on a daily basis from the due date until the date of actual payment of the overdue amount, whether before or after judgment. The Council shall pay the interest together with the overdue amount. This clause shall not apply to payments that the Council disputes in good faith.

#### Acceptance

* 1. The Council shall not have been deemed to have accepted the Supply until it is known to be satisfactory for the purpose and any sacks that prove to be unsatisfactory shall be replaced by the Supplier with satisfactory sacks at its own cost but subject to the provisions of clause 9 hereinafter contained.

#### Title

* 1. Title shall pass on delivery of the Supply to the Council.

#### Warranties

* 1. The Supplier warrants that the Supply upon any delivery will comply with the Contract Standard.

#### Assignment

* 1. The Supplier shall be prohibited from transferring or assigning directly or indirectly to any person or persons whatsoever any portion of this Contract without the written permission of the Council.
  2. Sub-letting shall be prohibited unless with the written permission of the Council.

#### Construction

* 1. These presents and the Contract documents and such working and explanatory drawings and instructions as aforesaid (if any) shall be deemed and taken to be and be construed together as one instrument or Contract to and for all intents and purposes and in all respects whatsoever.
  2. In the event that there is conflict between the Contract Conditions and any other document contained herewith the Contract Conditions prevail.

#### Liability for Damage to Persons and Property and Insurance

* 1. The Supplier shall be responsible for all damage to property at the delivery site and injury to persons, animals or things whether the property of the Council or otherwise caused by the negligence of the Supplier’s employees or agents delivering the goods, and shall indemnify the Council against any claims or proceedings in respect thereof and also against any claims or proceedings made at Common Law or under any Act of Parliament by any persons in the employ of the Supplier or Sub-Supplier, or by any person claiming through such person.
  2. The Supplier shall secure the due performance of these indemnities by entering into such policy or policies of insurance as the Council shall approve against any liability hereunder. The limit of indemnity under the Public Liability Policy shall be £5 million in respect of any one accident and £5 million in respect of Employers liability Insurance.
  3. The policy or policies and receipts for premiums shall be produced to the Head of Direct Services from time to time upon request and in case of failure to do so the Council shall be entitled to insure and deduct the amounts of the premiums for any sums due to the Supplier.

#### Defective Supply Service or Materials

* 1. The Supplier must comply with any request or instruction from the Head of Direct Services to remove or rectify any defectively supplied goods work or materials, and no such extra cost will be allowed for removal or remedial work Provided that the Council shall give the Supplier at least five days email notice of the same.
  2. If required by the Council at any time throughout the contractual term the supplier will pay to the Council the cost of independently testing the sacks to ensure the same meet with the Specification provided that the Council shall not use such a provision arbitrarily or capriciously.

#### Disputes

* 1. Any question or dispute that may arise on this Contract or as to anything arising therefrom shall be referred to the Head of Direct Services and in the event that agreement cannot be reached between the Head of Direct Services and the Supplier such dispute shall be referred to the Chief Officer for Environmental & Operational Services whose decision shall be final and binding on the parties hereto.

#### Bankruptcy and Insolvency

* 1. The Council may terminate this Contract at any time in the event of the Supplier (in the case of an individual) becoming bankrupt or making a composition or arrangement with his creditors or (in the case of a company) having a winding up order made (except for the purposes of reconstruction or amalgamation) a resolution for voluntary winding up passed or a Receiver or Manager Administrator or Administrative Receiver is appointed or possession taken of the Supplier’s assets by or on behalf of the holders of any debentures secured by a floating charge and the Council shall be entitled to repayment of any monies paid in advance.
  2. On such determination the Contract as aforesaid the Council shall have power to enter into a new Contract with some other person or firm for its supply without prejudice to their rights to recover from the Supplier or his sureties (if any) as damages under the Contract for the loss sustained by them owing to the Supplier’s default.

#### Breach and Termination

* 1. Should the Supplier fail to deliver the goods or materials or any part thereof in accordance in all respects with the foregoing Specification within the time or times specified in the contract the Council (without prejudice to any other remedy for breach of contract) shall be at liberty to determine the contract either wholly or to the extent of such default and to purchase other goods or materials as the case may be of the same or similar description to make good such default or in the event of the contract is wholly determined the goods or materials remaining to be delivered and the amount (if any) by which the cost of such purchase as aforesaid exceeds the amount which would have been payable to the Supplier in respect of the goods or materials as the case may be if they have been delivered in accordance with the contract shall be recoverable from the Supplier.
  2. Should the Supplier fail to proceed regularly and diligently to supply the goods to the satisfaction of the Council or fail to rectify unsatisfactory service or if the Supplier suspends the carrying out of the service for any period the Council may without prejudice to any rights or remedies which it might possess be at liberty by notice by registered post or recorded delivery to forthwith determine the Contract either wholly or to the extent of such default and to arrange for the service to be completed by other means and the amount by which the cost of the service carried out by other means exceed the amount which would have been payable to the Supplier in respect of the work if it had been completed in accordance with the Contract shall be recoverable from the Supplier and this shall not prejudice any claims for any other direct loss and/or damage caused to the Council by such determination
  3. If there shall be any material or other breach by the Supplier of the terms of this Contract on their part to be observed or performed and if the Supplier has been given reasonable opportunity to do so then the Council may give 21 days written notice to the Supplier to determine the Contract without prejudice to any other rights and remedies hereto contained
  4. It is hereby agreed and declared that the above Contract Conditions 12.1 to 12.3 inclusive may be applied by the Council in such order as the Council may at its sole discretion decide and the application of one such condition shall not exclude the right or remedy contained under another such condition.
  5. Where a Contract Period is specified in the contract documents or is otherwise agreed in writing by the parties then this Contract shall come to an end at the end of such Contract Period (if it has not already come to an end or been terminated before that date).
  6. All termination or coming to an end of this Contract shall be without prejudice to any claims for prior breach of this Contract and all of the Conditions which expressly or impliedly have effect after termination of this Contract for any reason will continue to be enforceable notwithstanding such termination or coming to an end.

#### Contract Costs

* 1. The Supplier is not entitled to any claim against the Council for any losses recorded in the execution of this contract.

#### Confidentiality

* 1. Each party undertakes that it shall not at any time disclose to any person any confidential information concerning the business, affairs, customers, clients or suppliers of the other party, except as permitted by clause [14.2.1](https://uk.practicallaw.thomsonreuters.com/Document/I04f9cf2ed8b411e498db8b09b4f043e0/View/FullText.html?navigationPath=Search%2Fv1%2Fresults%2Fnavigation%2Fi0ad740140000016a683b7a55a7a2f4b3%3FNav%3DKNOWHOW_UK%26fragmentIdentifier%3DI04f9cf2ed8b411e498db8b09b4f043e0%26startIndex%3D1%26contextData%3D%2528sc.Search%2529%26transitionType%3DSearchItem&listSource=Search&listPageSource=e82c1138fd57630df4f381f35ddd41a8&list=KNOWHOW_UK&rank=3&sessionScopeId=05d49ae726a800fe1b27414dd2430260048fd11bf95485e3fe3e5e6165c32563&originationContext=Search%20Result&transitionType=SearchItem&contextData=(sc.Search)&navId=A529CF9731C674C21532BA92E4F7EA5F&comp=pluk&view=hidealldraftingnotes#co_anchor_a403028). 
  2. Each party may disclose the other party's confidential information:
     1. to its employees, officers, representatives or advisers who need to know such information for the purposes of exercising the party's rights or carrying out its obligations under or in connection with this agreement. Each party shall ensure that its employees, officers, representatives or advisers to whom it discloses the other party's confidential information comply with this Clause; and
     2. as may be required by law, a court of competent jurisdiction or any governmental or regulatory authority.
  3. No party shall use any other party's confidential information for any purpose other than to exercise its rights and perform its obligations under or in connection with this Contract.

#### Freedom of Information

* 1. The Supplier acknowledges that the Council is subject to the requirements of the Code of Practice on Access to Government Information, the Freedom of Information Act and the Environmental Information Regulations and shall assist and cooperate with the Council (at the Supplier ’s expense) to enable the Council to comply with these information disclosure requirements.
  2. The Supplier shall and shall ensure that any agreed sub-Suppliers shall: -
     1. Provide the Council with a copy of all information in its possession or power in the form that the Council requires within five working days (or such other period as the Council may specify) of the Client requesting that information; and
     2. Provide all necessary assistance as reasonably requested by the Council to enable the Council to respond to a request for information within the time for compliance set out in Section 10 of the Freedom of Information Act 2000 or any amendment or addition thereto.
  3. The Council shall be responsible for determining at its absolute discretion whether:-
     1. The information is exempt from disclosure under the Code of Practice on Access to Government Information the FOIA and the Environmental Information Regulations;
     2. The information is to be disclosed in response to a request for information, and in no event shall the Supplier respond directly to a request for information unless expressly authorised to do so by the Council.
  4. The Supplier acknowledges that the Council may, acting in accordance with the Cabinet Office Freedom of Information Code of Practice be obliged under the Code of Practice on Access to Government Information, the FOIA, or the Environmental Information Regulations to disclose Information:-
     1. Without consulting with the Supplier or
     2. Following consultation with the Supplier and having taken its views into account.
  5. The Supplier shall ensure that all information produced in the course of the Contract or relating to the Contract is retained for disclosure and shall permit the Council to inspect such records as requested from time to time. The Supplier acknowledges that any lists or schedules provided by it outlining Confidential Information are of indicative value only and that the Council may nevertheless be obliged to disclose Confidential Information in accordance with the above clauses.

#### Data Protection

* 1. Both Parties to this Contract shall ensure at all times that they comply with all relevant requirements under the EU General Data Protection Regulation 2016/679 (“GDPR”), any laws implementing or supplementing the GDPR and all applicable law relating to personal information (together referred to as the “Data Protection Requirements”). They acknowledge that each Party is a Data Controller in its own right and that nothing under this Contract transfers personal information and nothing under this Contract confers any right to process personal information on behalf of another Party.
  2. The Service Provider warrants that it will duly observe all its obligations under the Data Protection Requirements which arise in connection with the Contract and any information it may receive or acquire in connection with the Contract and ensure that the Council shall not be in breach of the Data Protection Requirements as a result of any act or omission of the Service Provider.
  3. The Service Provider shall not store, copy, disclose, or use Personal Information under this Contract for which the Council is the Data Controller except as necessary for the performance of its obligations under this Contract or as otherwise expressly authorised in writing by the Council.
  4. The Service Provider shall indemnify and keep the Council indemnified in full from and against all claims, proceedings, actions, damages, loss, penalties, fines, levies, costs and expenses and all loss of profits, business revenue or goodwill (whether direct or indirect) and all consequential or indirect loss howsoever arising out of, in respect of or in connection with, any breach by the Supplier or any of its staff of this clause.

#### Health and Safety

* 1. The Supplier shall comply with the provisions of the Health and Safety at Work Act (1974) and in particular the duties imposed upon all employers to make provision for securing the health, safety and welfare of their employees and to their obligation to conduct their undertaking in a manner which will ensure that any non-employee who may be affected, is not exposed to risk.
  2. The Supplier shall also ensure that all his employees are fully conversant with, and operate under the relevant safety measures which appertain to their particular trades or skills, and that all employees are aware that they themselves have statutory duties under the provisions of the said Act, to take reasonable care of their own health and safety and that of any other person or persons who may be affected by their actions whilst at work and have a duty to co-operate with the Supplier in the exercise and fulfilment of the Supplier 's statutory obligations set out in the said Health and Safety at Work Act.
  3. The Supplier shall ensure the continuance of safety at any site at which work is being carried out by him, or on his behalf. This shall include the provision and use of necessary signing and guarding and protection of the public. On the highway guarding and signing shall be in accordance with the Road and Street Works Act 1991. The Supplier shall comply with the Health and Safety at Work etc. 1974. In particular, undertake, and ensure that all employees and sub-contractors comply with this clause. The attention of the Supplier is particularly directed to the Electricity at Work Regulations 1989 which shall be strictly observed.
  4. If during the performance of the supply the health and safety of any person is endangered then the Supplier shall cease delivery and take immediate steps to remedy that situation and ensure there is no repetition.
  5. The Supplier shall inform the Head of Direct Services of all incidents or accidents connected with the Contract and that occur during the performance of the contract.
  6. To comply with statutory requirements, the Supplier must use products, methods of work and protective measures which will minimise risks to the health and safety of the workforce and others affected by the delivery of the supply.
  7. Should the Supplier be found to be in breach of this clause the Council may immediately terminate this contract and the Supplier may be disqualified from any future invitations to tender or contracts.

#### Diversity

* 1. Throughout the duration of this Contract the Supplier shall, and in addition shall ensure that any sub-contractors (that the Council has agreed in writing to) shall: discharge their obligations under this Contract and perform the Services in accordance with their responsibilities under the Equality Act 2010 Codes of Practice issues by the Equalities and Human Rights Commission.
  2. The Supplier shall operate an equal opportunities policy and warrants that this policy shall comply with all relevant law. A copy of the Supplier’s policy shall be made available on request by the Council.
  3. If any Court or tribunal or the Equality and Human Rights Commission should make any finding of unlawful discrimination against the Supplier the Supplier shall take all necessary steps to prevent recurrence of such unlawful discrimination.
  4. The Supplier will be required to notify the Council of the finding and provide full details of the steps taken to prevent such recurrence as aforesaid.
  5. The Supplier’s equal opportunities policy shall be set out in any instructions circulated to those members of the Supplier’s employees concerned with recruitment training and promotion in relevant documentation available to its employees and others and in its recruitment advertisements and other relevant literature. The Supplier may be required to provide the Council with copies of such instructions documents advertisements and other literature and to notify the Council of any changes to the policy.

#### Fraud, Corruption, and Ethical Standards

* 1. The Council shall be entitled to cancel this Contract and to recover from the Supplier the amount of any loss resulting from such cancellation if the Supplier shall have offered or given or agreed to give to any person any gift or consideration of any kind as an inducement or regard for doing or forbearing to do or for having done or forborne to do any action in relation to the obtaining or execution of the Supplier or any other contract with the Council, for showing or forbearing to show favour or disfavour to any person in relation to the contract or any other contract with the Council, or if the like acts shall have done by any person employed by him or acting on his behalf (whether with or without the knowledge of the Supplier) or in relation to any Contract with the Council the Supplier or any person employed by him or acting on his behalf shall have committed any offence under the Bribery Act 2010, or shall have given any fee or reward the receipt of which is an offence under Section 117(2) of the Local Government Act 1972.
  2. The Supplier shall:
     1. comply with all applicable laws, statutes, regulations relating to anti-bribery and anti-corruption including but not limited to the Bribery Act 2010 and not engage in any activity, practice or conduct which would constitute an offence under the Bribery Act 2010 if such activity, practice or conduct had been carried out in the UK;
     2. comply with the Council’s Anti-Corruption and Bribery Policy. A complete guide to tenders and contracts policy can be found via the following link: <https://www.sevenoaks.gov.uk/info/20004/business/93/tenders_and_contracts>;
     3. Promptly report to the Council any request or demand which if complied with would amount to a breach of either this Contract or the Council’s Anti-Corruption and Bribery Policy;
     4. Ensure that any person associated with it who is performing services or providing goods in connection with this Contract does so only on the basis of a written contract which imposes on and secures from such person terms equivalent to those imposed on the Supplier in this clause.
  3. Breach of this clause shall be deemed a material breach of this Contract entitling the Council to terminate it immediately.

#### Force Majeure

* 1. Neither party hereto shall be liable for any breach of its obligations hereunder resulting from causes beyond its reasonable control including but not limited to fires, strikes (of its own or other employees), insurrection or riots, embargoes, container shortages, wrecks or delay in transportation inability to obtain supplies and raw materials requirements or regulations of any civil or military authority (an event of Force Majeure).

#### Property Law and Jurisdiction

* 1. This Contract shall be governed by English law in every particular including formation and interpretation and shall be deemed to have been made in England. Any proceedings arising out of or in connection with this Contract may be brought in any Court of competent jurisdiction in England and in the event that the Supplier is resident outside England its address for service in England shall be the address for such service at the address given in the tender and any time limits in any proceedings shall not be extended by virtue only of the foreign residence of the Supplier.

#### Rights of Third Parties

* 1. A person who is not a party to this Contract has no rights under the Contracts (Rights of Third Parties) Act 1999 to enforce any terms of this Contract but this does not affect any right or remedy of a third party which exists or is available apart from such Act.

IN WITNESS whereof the Council has caused its Common Seal to be hereunto affixed and the Supplier has set his hand the day and year first above mentioned.

**EXECUTED AS A DEED by**

**acting by a director and a**

**director or its secretary:**

**Director: Signed:**

**Name:**

**Director/Secretary: Signed:**

**Name:**

**THE COMMON SEAL of THE**

**DISTRICT COUNCIL OF**

**SEVENOAKS was hereunto**

**affixed in the presence of:-**

**Authorised Signatory**

**Authorised Signatory**

1. See PCR 2015 regulations 71 (8)-(9) [↑](#footnote-ref-1)
2. See EU definition of SME <https://ec.europa.eu/growth/smes/business-friendly-environment/sme-definition_en> [↑](#footnote-ref-2)
3. UK companies, Societates European (SEs) and limited liability partnerships (LLPs) will be required to identify and record the people who own or control their company. Companies, SEs and LLPs will need to keep a PSC register, and must file the PSC information with the central public register at Companies House. [See PSC guidance](https://www.gov.uk/government/publications/guidance-to-the-people-with-significant-control-requirements-for-companies-and-limited-liability-partnerships). [↑](#footnote-ref-3)
4. Central Government contracting authorities should use this information to have the PSC information for the preferred supplier checked before award. [↑](#footnote-ref-4)
5. [See Action Note 8/16 Updated Standard Selection Questionnaire](https://www.gov.uk/government/collections/procurement-policy-notes) [↑](#footnote-ref-5)